

To: Neugeboren, Steven[Neugeboren.Steven@epa.gov]
Cc: Schroer, Lee[schroer.lee@epa.gov]; Ford, Peter[Ford.Peter@epa.gov]
From: Berol, David
Sent: Wed 5/24/2017 7:45:38 PM
Subject: FW: Temporary Delegation of Authority - Northwest Environmental Advocates
[NWEA petition denial WA toxics 4 18 2017 clean.docx](#)
[WASHINGTON One-Time Delegation re WQ Toxics 04-27-17.pdf](#)
[Temporary Delegation.NWEA.5.22.17.pdf](#)
[NWEA petition WA toxics 2017 Memo to the File prefinalMay24.docx](#)

Steve –

Here's the final decision package on the Washington AL petition.

Ex. 5 - Deliberative Process

David Berol

U.S. EPA Office of General Counsel

202-564-6873

berol.david@epa.gov

From: Crk, Tanja

Sent: Wednesday, May 24, 2017 2:19 PM

To: Berol, David <Berol.David@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>

Cc: Schroer, Lee <schroer.lee@epa.gov>

Subject: RE: Temporary Delegation of Authority - Northwest Environmental Advocates

Hi David,

We received concurrence from R10 on the petition denial (please see attached). The other attachments are Mike's one-time delegation request to OHR signed April 27, 2017 and Pruitt's sign-off on the temporary delegation (with two dates May 16, 2017 in the doc and May 22, 2017 in the file name).

The memo to file is also attached as an FYI. There's an accompanying excel spreadsheet for the memo to file – let me know if you would like to have the spreadsheet as well.

Regards,

Tanja

From: Crk, Tanja

Sent: Wednesday, May 24, 2017 12:09 PM

To: Berol, David <Berol.David@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>

Cc: Schroer, Lee <schroer.lee@epa.gov>

Subject: RE: Temporary Delegation of Authority - Northwest Environmental Advocates

Hi David,

We have the latest memos (petition denial and memo to file) to send to you but waiting to hear final concurrence on the petition denial from R10 before sending over to you. Stay tuned!

Regards,

Tanja

From: Berol, David

Sent: Wednesday, May 24, 2017 9:57 AM

To: Fleisig, Erica <Fleisig.Erica@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>

Cc: Schroer, Lee <schroer.lee@epa.gov>

Subject: RE: Temporary Delegation of Authority - Northwest Environmental Advocates

Erica --

If you send me the final version I can see about getting the necessary OGC concurrence.

David Berol

U.S. EPA Office of General Counsel

202-564-6873

berol.david@epa.gov

From: Fleisig, Erica

Sent: Wednesday, May 24, 2017 8:40 AM

To: Buffo, Corey <Buffo.Corey@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Berol, David <Berol.David@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>

Cc: Schroer, Lee <schroer.lee@epa.gov>

Subject: Fw: Temporary Delegation of Authority - Northwest Environmental Advocates

Wow! I guess this means we can wrap this one up too. Our next step would be to ask for OGC concurrence on the version that previously went to Mike, assuming we are good to go?

Erica

From: Schroer, Lee

Sent: Wednesday, May 24, 2017 8:29:32 AM

To: Fleisig, Erica

Subject: FW: Temporary Delegation of Authority - Northwest Environmental Advocates

fyi

Lee C. Schroer

Office of General Counsel (Mail Code 2355A)

Room 7518C William Jefferson Clinton Bldg North

Environmental Protection Agency

1200 Pennsylvania Avenue, N.W.

Washington, D.C. 20460

Tel: 202-564-5476

From: Lousberg, Macara

Sent: Wednesday, May 24, 2017 7:22 AM

To: Schroer, Lee <schroer.lee@epa.gov>

Subject: FW: Temporary Delegation of Authority - Northwest Environmental Advocates

FYI Lee, the Administrator signed the Washington State delegation too.

From: Shapiro, Mike
Sent: Tuesday, May 23, 2017 10:12 PM
To: Lousberg, Macara <Lousberg.Macara@epa.gov>; Evalenko, Sandy <Evalenko.Sandy@epa.gov>
Cc: Best-Wong, Benita <Best-Wong.Benita@epa.gov>
Subject: FW: Temporary Delegation of Authority - Northwest Environmental Advocates

Here's 2 of 2.

Michael Shapiro

Acting Assistant Administrator, Office of Water

US EPA, 4101M

1200 Pennsylvania Ave., NW

Washington, DC 20460

202-564-5700

From: Hope, Brian **On Behalf Of** EPAExecSec
Sent: Tuesday, May 23, 2017 10:52 AM
To: Shapiro, Mike <Shapiro.Mike@epa.gov>
Subject: Temporary Delegation of Authority - Northwest Environmental Advocates

Please see the attached memorandum signed by Administrator Pruitt.

To: Berol, David[Berol.David@epa.gov]
Cc: Schroer, Lee[schroer.lee@epa.gov]; Szalay, Endre[Szalay.Endre@epa.gov]; Maher, Lauren[Maher.Lauren@epa.gov]; Guadagno, Tony[Guadagno.Tony@epa.gov]
From: Ford, Peter
Sent: Wed 2/22/2017 2:04:20 PM
Subject: FW: WA toxic criteria petition
[NWEA v EPA Complaint Feb 21 2017.pdf](#)
[ATT00001.htm](#)

Looks like David Berol may already be on this; I see he added it to our WLO weekly mtg with our front office. Is that right, David?

Peter Z. Ford

U.S. EPA Office of General Counsel

202.564.5593

From: Szalay, Endre
Sent: Tuesday, February 21, 2017 3:24 PM
To: Ford, Peter <Ford.Peter@epa.gov>
Subject: FW: WA toxic criteria petition

You might have seen this already, but forwarding just in case.

Endre Szalay

US EPA Region 10

Office of Regional Counsel

206-553-1073

From: Chung, Angela
Sent: Tuesday, February 21, 2017 11:31 AM
To: Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Szalay, Endre

<Szalay.Endre@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>

Subject: Fwd: WA toxic criteria petition

FYI

Sent from my iPhone

Begin forwarded message:

From: "Nina Bell" <nbell@advocates-nwea.org>

Date: February 21, 2017 at 11:23:02 AM PST

To: <Chung.angela@Epamail.epa.gov>

Subject: WA toxic criteria petition

Reply-To: <nbell@advocates-nwea.org>

We filed the attached case today.

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212

nbell@advocates-nwea.org

NorthwestEnvironmentalAdvocates.org

503/295-0490

To: Schroer, Lee[schroer.lee@epa.gov]; Guadagno, Tony[Guadagno.Tony@epa.gov]; Maher, Lauren[Mahe.Lauren@epa.gov]
From: Ford, Peter
Sent: Wed 2/22/2017 2:00:32 PM
Subject: FW: WA toxic criteria petition
[NWEA v EPA Complaint Feb 21 2017.pdf](#)
[ATT00001.htm](#)

In addition to the industry petition I just forwarded, looks like we also got an unreasonable delay lawsuit from NWEA for failure to respond to their petition asking us to promulgate numeric criteria for toxic pollutants in WA to protect aquatic life and human health (presumably for human health only referring to those 44 or so pollutants for which we didn't promulgate last year).

Peter Z. Ford

U.S. EPA Office of General Counsel

202.564.5593

From: Szalay, Endre
Sent: Tuesday, February 21, 2017 3:24 PM
To: Ford, Peter <Ford.Peter@epa.gov>
Subject: FW: WA toxic criteria petition

You might have seen this already, but forwarding just in case.

Endre Szalay

US EPA Region 10

Office of Regional Counsel

206-553-1073

From: Chung, Angela
Sent: Tuesday, February 21, 2017 11:31 AM

To: Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>
Subject: Fwd: WA toxic criteria petition

FYI

Sent from my iPhone

Begin forwarded message:

From: "Nina Bell" <nbell@advocates-nwea.org>
Date: February 21, 2017 at 11:23:02 AM PST
To: <Chung.angela@Epamail.epa.gov>
Subject: WA toxic criteria petition
Reply-To: <nbell@advocates-nwea.org>

We filed the attached case today.

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212

nbell@advocates-nwea.org

NorthwestEnvironmentalAdvocates.org

503/295-0490

To: Szalay, Endre[Szalay.Endre@epa.gov]
From: Ford, Peter
Sent: Tue 2/21/2017 9:32:43 PM
Subject: RE: WA toxic criteria petition

Hey, is this a new case, and if so, is it related to our HHC rule? I'm transferring out of WQS except for the ME/WA/ID tribal stuff. Thanks, man.

Peter Z. Ford

U.S. EPA Office of General Counsel

202.564.5593

From: Szalay, Endre
Sent: Tuesday, February 21, 2017 3:24 PM
To: Ford, Peter <Ford.Peter@epa.gov>
Subject: FW: WA toxic criteria petition

You might have seen this already, but forwarding just in case.

Endre Szalay

US EPA Region 10

Office of Regional Counsel

206-553-1073

From: Chung, Angela
Sent: Tuesday, February 21, 2017 11:31 AM
To: Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>

Subject: Fwd: WA toxic criteria petition

FYI

Sent from my iPhone

Begin forwarded message:

From: "Nina Bell" <nbell@advocates-nwea.org>

Date: February 21, 2017 at 11:23:02 AM PST

To: <Chung.angela@Epamail.epa.gov>

Subject: WA toxic criteria petition

Reply-To: <nbell@advocates-nwea.org>

We filed the attached case today.

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212

nbell@advocates-nwea.org

NorthwestEnvironmentalAdvocates.org

503/295-0490

To: Szelag, Matthew[Szelag.Matthew@epa.gov]; Morris, Cynthia (ENRD)[C.J.Morris@usdoj.gov]; Cohon, Keith[Cohon.Keith@epa.gov]
Cc: Chung, Angela[Chung.Angela@epa.gov]; Schroer, Lee[schroer.lee@epa.gov]
From: Ford, Peter
Sent: Fri 3/21/2014 4:00:03 PM
Subject: RE: Petition to EPA Administrator -- WA toxics

Ex. 5 - Attorney Client

Peter Z. Ford

U.S. EPA Office of General Counsel

202.564.5593

From: Szelag, Matthew
Sent: Friday, March 21, 2014 11:28 AM
To: Morris, Cynthia (ENRD); Ford, Peter; Cohon, Keith
Cc: Chung, Angela
Subject: RE: Petition to EPA Administrator -- WA toxics

If you want to cite NWEA's website you can find the petition here:
<http://northwestenvironmentaladvocates.org/2013/10/washington-water-quality-standards/>

I'm not aware of it being available anywhere else. Maybe we could just attach the cover letter instead?

Ex. 5 - Deliberative Process

right, but I don't know if Keith is aware of it.

Thanks,

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

1200 6th Avenue, Suite 900, OWW-131 | Seattle, WA 98101

P: (206) 553.5171 | szelag.matthew@epa.gov

From: Morris, Cynthia (ENRD) [<mailto:C.J.Morris@usdoj.gov>]

Sent: Thursday, March 20, 2014 7:59 PM

To: Ford, Peter; Cohon, Keith; Szelag, Matthew

Subject: RE: Petition to EPA Administrator -- WA toxics

Is there a website or other source I can cite for the NWEA Petition? I would hate to have to attach the whole thing as an exhibit.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

From: Ford, Peter [<mailto:Ford.Peter@epa.gov>]

Sent: Thursday, March 20, 2014 9:08 PM

To: Cohon, Keith; Morris, Cynthia (ENRD); Szelag, Matthew

Subject: RE: Petition to EPA Administrator -- WA toxics

Ex. 5 - Deliberative Process

Peter Z. Ford

U.S. EPA Office of General Counsel

202.564.5593

From: Cohon, Keith
Sent: Thursday, March 20, 2014 4:58 PM
To: Morris, Cynthia (ENRD); Szelag, Matthew; Ford, Peter
Subject: RE: Petition to EPA Administrator -- WA toxics

Right and right. Right Pete?

Ex. 5 - Deliberative Process

Keith

From: Morris, Cynthia (ENRD) [<mailto:C.J.Morris@usdoj.gov>]
Sent: Thursday, March 20, 2014 12:46 PM
To: Cohon, Keith; Szelag, Matthew; Ford, Peter
Subject: RE: Petition to EPA Administrator -- WA toxics

Ex. 5 - Deliberative Process

From: Cohon, Keith [<mailto:Cohon.Keith@epa.gov>]
Sent: Thursday, March 20, 2014 3:44 PM
To: Szelag, Matthew; Ford, Peter; Morris, Cynthia (ENRD)
Subject: RE: Petition to EPA Administrator -- WA toxics

Ex. 5 - Deliberative Process

From: Szelag, Matthew
Sent: Thursday, March 20, 2014 11:30 AM
To: Cohon, Keith; Ford, Peter; Morris, Cynthia (ENRD)
Subject: FW: Petition to EPA Administrator -- WA toxics

Keith requested I send you this petition. It includes a request both for WA's aquatic life and human health criteria.

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

1200 6th Avenue, Suite 900, OWW-131 | Seattle, WA 98101

P: (206) 553.5171 | szelag.matthew@epa.gov

From: Nina Bell [<mailto:nbell@advocates-nwea.org>]
Sent: Monday, October 28, 2013 10:18 AM
To: Opalski, Dan; Psyk, Christine; Chung, Angela
Cc: Szelag, Matthew
Subject: Petition to EPA Administrator -- WA toxics

Dan, Christine, and Angela:

Please find attached the petition to Administrator McCarthy regarding Washington's toxic criteria.

Nina

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212-0187

www.NorthwestEnvironmentalAdvocates.org

nbell@advocates-nwea.org

503/295-0490

From: Crk, Tanja
Location: HQ-Room-WJCW-6124-50pp
Importance: Normal
Subject: FW: WA Toxic Criteria and AWB Petitions
Start Date/Time: Tue 3/7/2017 6:00:00 PM
End Date/Time: Tue 3/7/2017 7:00:00 PM
[NWEA v EPA Complaint Feb 21 2017.pdf](#)
[NWEA petition response.pdf](#)
[2017-02-15 WTR Petition for Rulemaking FINAL.PDF](#)

Ex. 5 - Attorney Client

-----Original Appointment-----

From: Crk, Tanja
Sent: Wednesday, February 22, 2017 4:28 PM
To: Crk, Tanja; Chung, Angela; Szelag, Matthew; Guzzo, Lindsay; Szalay, Endre; Steiner-Riley, Cara; Fleisig, Erica; Fidis, Alexander; Buffo, Corey; Berol, David; Ford, Peter
Cc: Schroer, Lee
Subject: WA Toxic Criteria and AWB Petitions
When: Tuesday, March 07, 2017 1:00 PM-2:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: HQ-Room-WJCW-6124-50pp

Ex. 5 - Deliberative Process

To: Gallagher, Kathryn[Gallagher.Kathryn@epa.gov]
From: Behl, Betsy
Sent: Mon 8/31/2015 10:45:18 PM
Subject: FW: NWEA 2013 Petition on WA WQS -- follow up letter
Petition follow up letter Aug 31 2015.pdf

FYI

From: Nina Bell [mailto:nbell@advocates-nwea.org]
Sent: Monday, August 31, 2015 2:02 PM
To: McLerran, Dennis; Opalski, Dan; Chung, Angela; Behl, Betsy; Hisel-McCoy, Sara; Southerland, Elizabeth; Kopocis, Ken
Subject: NWEA 2013 Petition on WA WQS -- follow up letter

Please see the attached letter regarding Northwest Environmental Advocates' October 28, 2013 Petition for Rulemaking on Water Quality Criteria for Toxics in the State of Washington sent to Administrator Gina McCarthy today.

Sincerely,

Nina

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212-0187

www.NorthwestEnvironmentalAdvocates.org

nbell@advocates-nwea.org

503/295-0490

To: Hisel-McCoy, Sara[Hisel-McCoy.Sara@epa.gov]; Behl, Betsy[Behl.Betsy@epa.gov]; Gallagher, Kathryn[Gallagher.Kathryn@epa.gov]; Doyle, Elizabeth[Doyle.Elizabeth@epa.gov]; Keating, Jim[Keating.Jim@epa.gov]
Cc: Galer, Rose[Galer.Rose@epa.gov]; Berol, David[Berol.David@epa.gov]; Buffo, Corey[Buffo.Corey@epa.gov]
From: Fabiano, Claudia
Sent: Mon 10/28/2013 7:29:55 PM
Subject: RE: Petition to EPA Administrator -- WA toxics
[Petition to Update Washington WQS FINAL.PDF](#)
[Petition cover letter.pdf](#)

We received a petition from NWEA asking EPA to update WA's human health and aquatic life criteria (most have not been revised since 1992). I haven't read this yet (and it's pretty long), but wanted to share with you.

From: Galer, Rose
Sent: Monday, October 28, 2013 2:15 PM
To: Berol, David; Buffo, Corey
Cc: Fabiano, Claudia
Subject: FW: Petition to EPA Administrator -- WA toxics

FYI...here is the petition from Nina regarding WA WQS.

From: Szelag, Matthew
Sent: Monday, October 28, 2013 11:11 AM
To: Galer, Rose; Fabiano, Claudia
Cc: Chung, Angela
Subject: FW: Petition to EPA Administrator -- WA toxics

FYI – I haven't read this yet, but my understanding is that it includes human health and aquatic life. Could you please share with the appropriate folks at HQ?

Thanks,

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

1200 6th Avenue, Suite 900, OWW-131 | Seattle, WA 98101

P: (206) 553.5171 | szelag.matthew@epa.gov

From: Nina Bell [<mailto:nbell@advocates-nwea.org>]

Sent: Monday, October 28, 2013 10:18 AM

To: Opalski, Dan; Psyk, Christine; Chung, Angela

Cc: Szelag, Matthew

Subject: Petition to EPA Administrator -- WA toxics

Dan, Christine, and Angela:

Please find attached the petition to Administrator McCarthy regarding Washington's toxic criteria.

Nina

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212-0187

www.NorthwestEnvironmentalAdvocates.org

nbell@advocates-nwea.org

503/295-0490

To: Gallagher, Kathryn[Gallagher.Kathryn@epa.gov]; Lehmann, Wade[Lehmann.Wade@epa.gov]
From: Fabiano, Claudia
Sent: Wed 1/8/2014 8:58:11 PM
Subject: FW: Petition to EPA Administrator -- WA toxics
[Petition to Update Washington WQS FINAL.pdf](#)
[Petition cover letter.pdf](#)

In case you're bored...

From: Szelag, Matthew
Sent: Monday, November 04, 2013 5:56 PM
To: Fabiano, Claudia
Subject: FW: Petition to EPA Administrator -- WA toxics

Hi Claudia,

Angela and I were talking about this petition today and wondering what the regional role might be. I don't know much about the petition process and how HQ typically handles them. Is there a standard process or any guesses you have about how this may play out?

Thanks in advance.

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

1200 6th Avenue, Suite 900, OWW-131 | Seattle, WA 98101

P: (206) 553.5171 | szelag.matthew@epa.gov

From: Nina Bell [<mailto:nbell@advocates-nwea.org>]
Sent: Monday, October 28, 2013 10:18 AM
To: Opalski, Dan; Psyk, Christine; Chung, Angela
Cc: Szelag, Matthew
Subject: Petition to EPA Administrator -- WA toxics

Dan, Christine, and Angela:

Please find attached the petition to Administrator McCarthy regarding Washington's toxic criteria.

Nina

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212-0187

www.NorthwestEnvironmentalAdvocates.org

nbell@advocates-nwea.org

503/295-0490

To: Gallagher, Kathryn[Gallagher.Kathryn@epa.gov]
From: Buffo, Corey
Sent: Tue 2/21/2017 8:15:29 PM
Subject: FW: WA toxic criteria petition
NWEA v EPA Complaint Feb 21 2017.pdf
ATT00001.htm

FYI

From: Chung, Angela
Sent: Tuesday, February 21, 2017 2:31 PM
To: Szclag, Matthew <Szclag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>
Subject: Fwd: WA toxic criteria petition

FYI

Sent from my iPhone

Begin forwarded message:

From: "Nina Bell" <nbell@advocates-nwea.org>
Date: February 21, 2017 at 11:23:02 AM PST
To: <Chung.angela@Epamail.epa.gov>
Subject: WA toxic criteria petition
Reply-To: <nbell@advocates-nwea.org>

We filed the attached case today.

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212

nbell@advocates-nwea.org

NorthwestEnvironmentalAdvocates.org

503/295-0490

To: Macchio, Lisa[Macchio.Lisa@epa.gov]; Guzzo, Lindsay[Guzzo.Lindsay@epa.gov]
Cc: Beckwith, William[Beckwith.William@epa.gov]
From: Chung, Angela
Sent: Mon 4/10/2017 5:28:19 PM
Subject: FW: Ken Wagner Visit--OWW Topics to Tee-up

FYI – nothing big but I did make a few tweaks to the WA NWEA petition paragraph. I added

Ex. 5 - Deliberative Process

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Chung, Angela
Sent: Monday, April 10, 2017 10:27 AM
To: Psyk, Christine <Psyk.Christine@epa.gov>
Cc: Holsman, Marianne <Holsman.Marianne@epa.gov>; Grandinetti, Cami
<Grandinetti.Cami@epa.gov>; Beckwith, William (Beckwith.William@epa.gov)
<Beckwith.William@epa.gov>
Subject: RE: Ken Wagner Visit--OWW Topics to Tee-up

Hi Christine,

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

-

-

PETITIONS

Washington NWEA petition: On February 21, 2017, NWEA filed an unreasonable delay suit against the EPA in the Western District of Washington. The alleged unreasonable delay is with respect to a petition that NWEA filed on October 28, 2013, and subsequently supplemented on August 31, 2015, and February 9, 2016. NWEA's petition urged EPA to promulgate a federal rule to update water quality toxics criteria for Washington, for both human health and the protection of aquatic life. In the litigation, NWEA cites that EPA has not yet delivered a response to NWEA's 2013 petition regarding: (1) Human health: EPA did not promulgate human health criteria for the full suite of pollutants that NWEA requested, noting the absence of criteria for arsenic, dioxin, and thallium and, (2) Aquatic life: Washington has not yet adopted revised aquatic life criteria and EPA has not promulgated aquatic life criteria for Washington. EPA sent a preliminary response to NWEA on March 4, 2016 that requested additional information to support the petition request and NWEA replied to EPA on February 21, 2017. We are currently working with HQ on a final response to this petition.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Psyk, Christine
Sent: Thursday, April 06, 2017 4:49 PM
To: Lidgard, Michael <Lidgard.Michael@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Murchie, Peter <Murchie.Peter@epa.gov>; Biaggi, Taylor <biaggi.taylor@epa.gov>; Rylko, Michael <Rylko.Michael@epa.gov>
Cc: Holsman, Marianne <Holsman.Marianne@epa.gov>; Grandinetti, Cami <Grandinetti.Cami@epa.gov>
Subject: Ken Wagner Visit--OWW Topics to Tee-up

Folks, Marianne informed me that next Wednesday, April 12th we are having a visit from Ken Wagner. He is the Senior Advisor for Regional/State Affairs in the Front Office. Part of his visit will include a round table with the ET on Wednesday morning and then from 1:45 p.m. to 2:30 p.m. there's a meeting focused on OWW issues that I will attend to represent OWW issues.

Ex. 5 - Deliberative Process

Again, this is expected to be high level and I've attached the write-ups that we have developed for the RA briefing book. I will look to those for talking points, but I would also like to ask for the following:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

I may ask you for more. I'm not asking for anything long, just bullets that you think might be helpful to emphasize. Thanks.

Christine Psyk, Acting Office Director

EPA Region 10, OWW

206-553-1906

Psyk.christine@epa.gov

From: Grandinetti, Cami
Sent: Thursday, April 06, 2017 12:06 PM
To: Psyk, Christine <Psyk.Christine@epa.gov>
Subject: FW: can you send me the edited version of OWW's RA Handbook submission?

Here's the draft that Marianne is using.

Cami Grandinetti
Acting Associate Director, Office of Water and Watersheds
1200 6th Avenue, Suite 900, OWW-192
Seattle, Wa. 98101
(206) 553-8696 (desk)
(206) 390-8890 (cell)

From: Holsman, Marianne
Sent: Thursday, April 06, 2017 12:02 PM
To: Grandinetti, Cami <Grandinetti.Cami@epa.gov>
Subject: RE: can you send me the edited version of OWW's RA Handbook submission?

Here it is. I have some highlighted notes where we may still need to edit, but I've already sent this to Kevin B., so let's wait to make any additional changes. We can make changes in the final formatted book.

Marianne

Follow us!



From: Grandinetti, Cami

Sent: Thursday, April 06, 2017 11:45 AM

To: Holsman, Marianne <Holsman.Marianne@epa.gov>

Subject: can you send me the edited version of OWW's RA Handbook submission?

Christine is preparing to talk to Ken Wagner next Wednesday and she is going to use the write-ups I submitted for the RA handbook but I know you all probably edited so I thought it would be good for her to see that too. Is it easy to send?

Cami Grandinetti

Acting Associate Director, Office of Water and Watersheds

1200 6th Avenue, Suite 900, OWW-192

Seattle, Wa. 98101

(206) 553-8696 (desk)

Ex. 6 - Personal Privacy (cell)

To: Buffo, Corey[Buffo.Corey@epa.gov]; Keating, Jim[Keating.Jim@epa.gov]; Fabiano, Claudia[Fabiano.Claudia@epa.gov]
Cc: Hisel-Mccoy, Sara[Hisel-McCoy.Sara@epa.gov]; Barash, Shari[Barash.Shari@epa.gov]
From: Washington, Evelyn
Sent: Mon 2/22/2016 6:23:03 PM
Subject: a CMS is coming your way from Nina Bell Re: Petition for Rulemaking on Water Quality Criteria for Toxics in the State of Washington

This is her Second Follow Up to October 28, 2013 Northwest Environmental Advocates' Petition on this subject.

Northwest Environmental Advocates sent a petition to update the State of Washington's aquatic life criteria in its water quality standards on October 28, 2013. We did not respond.

On August 31, 2015 they sent a follow-up letter urging us to respond. We wrote thanking them for our "valuable input" on the matter but provided no info on when/if we intend to respond to the petition.

This new letter points out minor errors in the original petition and that EPA cannot rely upon the state to do what it should and how inexcusable it is that EPA has not taken any steps to bring WA's water quality standards for toxics up to date. And once again, they urge us to grant the petition.

The due date for the response is March 3 and it is a Direct Reply meaning the DD will sign it.

To: Hisel-McCoy, Sara[Hisel-McCoy.Sara@epa.gov]; Buffo, Corey[Buffo.Corey@epa.gov];
Fabiano, Claudia[Fabiano.Claudia@epa.gov]; Berol, David[Berol.David@epa.gov]; Schroer,
Lee[schroer.lee@epa.gov]; Chung, Angela[Chung.Angela@epa.gov]
From: Robiou, Grace
Sent: Fri 1/10/2014 4:34:12 PM
Subject: FW: Reg Revision Comments posted--Nina Bell (NWEA)
[NWEA Comment.pdf](#)
[NWEA Cover page.pdf](#)
[NWEA attach1 Petition to Update Washington WQS FINAL.pdf](#)
[NWEA attach2 Letter to Federal Agencies Type N Amphibian Protection.pdf](#)
[NWEA attach3 Proposed water quality permit renewal for the Oak Lodge Water Reclamation Facility.pdf](#)
[NWEA attach4 Antidegradation Policy IMD Review Support Document Final 08 08 2013.pdf](#)
[NWEA attach5 Letter to Gregory Aldrich, Administrator, ODEQ, from Daniel D Opalski, Director, USEPA, 8 08 13](#)

FYI – in the context of the NWEA litigation, here are their comments to the proposed WQS rule

From: Aguirre, Janita
Sent: Friday, January 10, 2014 10:29 AM
To: Robiou, Grace; Barash, Shari; Vican, Manjali
Cc: Christensen, Christina; Goss, Heather; Russo, Gary
Subject: Reg Revision Comments posted--Nina Bell (NWEA)

All,

The NWEA comments have been posted at regulations.gov. I am including the comments, cover letter and 5 attachments in this email.

Thank you,

Janita

~**~**~**~**~**~**~**~**~**~**~**~**~**~**~**~

Janita Aguirre

Standards and Health Protection Division

Office of Water, U.S. EPA

(202) 566-1149

~**~**~**~**~**~**~**~**~**~**~**~**~**~**~

To: Hisel-McCoy, Sara[Hisel-McCoy.Sara@epa.gov]
From: Southerland, Elizabeth
Sent: Mon 10/28/2013 8:37:13 PM
Subject: FW: Petition to EPA Administrator -- WA toxics
Petition to Update Washington WQS FINAL.pdf
Petition cover letter.pdf

Elizabeth Southerland, Director

Office of Science & Technology

Office Water

Room 5233A - MC - 4301T

Washington, D. C. 20460

Direct: (202) 566-0328

Fax: (202) 566-0441

From: Opalski, Dan
Sent: Monday, October 28, 2013 2:45 PM
To: Stoner, Nancy; Southerland, Elizabeth
Subject: FW: Petition to EPA Administrator -- WA toxics

Nancy/Betsy –

Our understanding from conversation with Nina late last week is that this really is meant to get a clock ticking on the “ultimate” backstop for Washington should their existing processes not stay on track.

DanO.

From: Nina Bell [<mailto:nbell@advocates-nwea.org>]
Sent: Monday, October 28, 2013 10:18 AM
To: Opalski, Dan; Psyk, Christine; Chung, Angela
Cc: Szelag, Matthew
Subject: Petition to EPA Administrator -- WA toxics

Dan, Christine, and Angela:

Please find attached the petition to Administrator McCarthy regarding Washington's toxic criteria.

Nina

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212-0187

www.NorthwestEnvironmentalAdvocates.org

nbell@advocates-nwea.org

503/295-0490

To: Hisel-Mccoy, Sara[Hisel-McCoy.Sara@epa.gov]
From: McRae, Evelyn
Sent: Tue 4/4/2017 8:26:51 PM
Subject: FW: WA AL+ and petition denial

Ex. 5 - Deliberative Process

Sara, no mark up version.

From: Fleisig, Erica
Sent: Tuesday, April 04, 2017 4:20 PM
To: Crk, Tanja <Crk.Tanja@epa.gov>; Hisel-Mccoy, Sara <Hisel-McCoy.Sara@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>
Cc: McRae, Evelyn <McRae.Evelyn@epa.gov>
Subject: RE: WA AL+ and petition denial

Just FYI Sara, this has edits from Angela that she made last night. We're working on incorporating those today, but would welcome any edits from you on top of these. Thank you!!

From: Crk, Tanja
Sent: Tuesday, April 04, 2017 4:18 PM
To: Hisel-Mccoy, Sara <Hisel-McCoy.Sara@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>
Cc: Fleisig, Erica <Fleisig.Erica@epa.gov>; McRae, Evelyn <McRae.Evelyn@epa.gov>
Subject: RE: WA AL+ and petition denial

Sara,

Please see attached denial letter same as from the link below (as of 4:17pm today).

Tanja

From: Hisel-Mccoy, Sara
Sent: Tuesday, April 04, 2017 4:16 PM
To: Buffo, Corey <Buffo.Corey@epa.gov>
Cc: Fleisig, Erica <Fleisig.Erica@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; McRae, Evelyn <McRae.Evelyn@epa.gov>

Subject: Re: WA AL+ and petition denial

Could someone send this to me as an attachment? Thanks. Sara

Standards and Health Protection Division

On Apr 3, 2017, at 5:22 PM, Buffo, Corey <Buffo.Corey@epa.gov> wrote:

I think our goals in this denial are as follows:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

To: Hisel-McCoy, Sara[Hisel-McCoy.Sara@epa.gov]
Cc: Chung, Angela[Chung.Angela@epa.gov]; Psyk, Christine[Psyk.Christine@epa.gov]
From: Nina Bell
Sent: Tue 2/21/2017 8:07:04 PM
Subject: NWEA letter re WA toxic criteria
NWEA response to EPA May 4 2016 letter.pdf

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212

nbell@advocates-nwea.org

NorthwestEnvironmentalAdvocates.org

503/295-0490

To: Southerland, Elizabeth[Southerland.Elizabeth@epa.gov]
Cc: Buffo, Corey[Buffo.Corey@epa.gov]; Fabiano, Claudia[Fabiano.Claudia@epa.gov]
From: Hisel-Mccoy, Sara
Sent: Mon 10/28/2013 7:34:23 PM
Subject: FW: Petition to EPA Administrator -- WA toxics
Petition to Update Washington WQS FINAL.PDF
Petition cover letter.pdf

Arg☹

We received a petition from NWEA asking EPA to update WA's human health and aquatic life criteria (most have not been revised since 1992). I haven't read this yet (it's pretty long), but wanted to share with you.

Sara

Sara Hisel-McCoy, Director

Standards and Health Protection Division

Office of Water, Office of Science and Technology

US Environmental Protection Agency

1200 Pennsylvania Ave, NW

Washington, DC 20460

Tel: 202-566-1649

EPA West 6105D

From: Galer, Rose
Sent: Monday, October 28, 2013 2:15 PM
To: Berol, David; Buffo, Corey
Cc: Fabiano, Claudia
Subject: FW: Petition to EPA Administrator -- WA toxics

FYI...here is the petition from Nina regarding WA WQS.

From: Szelag, Matthew
Sent: Monday, October 28, 2013 11:11 AM
To: Galer, Rose; Fabiano, Claudia
Cc: Chung, Angela
Subject: FW: Petition to EPA Administrator -- WA toxics

FYI – I haven't read this yet, but my understanding is that it includes human health and aquatic life. Could you please share with the appropriate folks at HQ?

Thanks,

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

1200 6th Avenue, Suite 900, OWW-131 | Seattle, WA 98101

P: (206) 553.5171 | szelag.matthew@epa.gov

From: Nina Bell [<mailto:nbell@advocates-nwea.org>]
Sent: Monday, October 28, 2013 10:18 AM
To: Opalski, Dan; Psyk, Christine; Chung, Angela
Cc: Szelag, Matthew
Subject: Petition to EPA Administrator -- WA toxics

Dan, Christine, and Angela:

Please find attached the petition to Administrator McCarthy regarding Washington's toxic criteria.

Nina

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212-0187

www.NorthwestEnvironmentalAdvocates.org

nbell@advocates-nwea.org

503/295-0490

To: Barr, Janine[barr.janine@epa.gov]
From: Hisel-Mccoy, Sara
Sent: Thur 2/23/2017 3:19:50 PM
Subject: FW: NWEA letter re WA toxic criteria
NWEA response to EPA May 4 2016 letter.pdf

From: Nina Bell [mailto:nbell@advocates-nwea.org]
Sent: Tuesday, February 21, 2017 3:07 PM
To: Hisel-Mccoy, Sara <Hisel-McCoy.Sara@epa.gov>
Cc: Chung, Angela <Chung.Angela@epa.gov>; Psyk, Christine <Psyk.Christine@epa.gov>
Subject: NWEA letter re WA toxic criteria

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212

nbell@advocates-nwea.org

NorthwestEnvironmentalAdvocates.org

503/295-0490

To: Southerland, Elizabeth[Southerland.Elizabeth@epa.gov]
Cc: Corey Buffo[Buffo.Corey@epa.gov]; Fleisig, Erica[Fleisig.Erica@epa.gov]
From: Hisel-Mccoy, Sara
Sent: Wed 2/22/2017 4:26:06 PM
Subject: FW: NWEA letter re WA toxic criteria
NWEA response to EPA May 4 2016 letter.pdf

FYI

From: Nina Bell [mailto:nbell@advocates-nwea.org]
Sent: Tuesday, February 21, 2017 3:07 PM
To: Hisel-Mccoy, Sara <Hisel-McCoy.Sara@epa.gov>
Cc: Chung, Angela <Chung.Angela@epa.gov>; Psyk, Christine <Psyk.Christine@epa.gov>
Subject: NWEA letter re WA toxic criteria

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212

nbell@advocates-nwea.org

NorthwestEnvironmentalAdvocates.org

503/295-0490

To: Southerland, Elizabeth[Southerland.Elizabeth@epa.gov]
Cc: Corey Buffo[Buffo.Corey@epa.gov]; Fleisig, Erica[Fleisig.Erica@epa.gov]
From: Hisel-Mccoy, Sara
Sent: Wed 2/22/2017 4:23:41 PM
Subject: FW: WA toxic criteria petition
[NWEA v EPA Complaint Feb 21 2017.pdf](#)
[ATT00001.htm](#)

Betsy,

We can discuss at my general with you on Thursday. Also, you may recall that I sent NWEA a inquiry letter on their petition to them last May. They also responded to that letter yesterday. I will forward that next.

Sara

From: Fleisig, Erica
Sent: Tuesday, February 21, 2017 2:37 PM
To: Schroer, Lee <schroer.lee@epa.gov>; Berol, David <Berol.David@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Hisel-Mccoy, Sara <Hisel-McCoy.Sara@epa.gov>; Keating, Jim <Keating.Jim@epa.gov>
Cc: Crk, Tanja <Crk.Tanja@epa.gov>
Subject: FW: WA toxic criteria petition

David, I think you had worked with us on this one originally (last we had done was respond to NWEA with questions and answer that her human health criteria portion of the original petition was now moot). More to discuss soon (Lee/David, please let us know if David isn't the OGC lead on this).

-Erica

From: Chung, Angela
Sent: Tuesday, February 21, 2017 2:31 PM
To: Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay

<Guzzo.Lindsay@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>

Subject: Fwd: WA toxic criteria petition

FYI

Sent from my iPhone

Begin forwarded message:

From: "Nina Bell" <nbell@advocates-nwea.org>
Date: February 21, 2017 at 11:23:02 AM PST
To: <Chung.angela@Epamail.epa.gov>
Subject: WA toxic criteria petition
Reply-To: <nbell@advocates-nwea.org>

We filed the attached case today.

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212

nbell@advocates-nwea.org

NorthwestEnvironmentalAdvocates.org

503/295-0490

To: Behl, Betsy[Behl.Betsy@epa.gov]; Flaherty, Colleen[Flaherty.Colleen@epa.gov]
From: Hisel-Mccoy, Sara
Sent: Tue 2/21/2017 8:15:00 PM
Subject: Fwd: WA toxic criteria petition
[NWEA v EPA Complaint Feb 21 2017.pdf](#)
[ATT00001.htm](#)

FYI

Standards and Health Protection Division

Begin forwarded message:

From: "Fleisig, Erica" <Fleisig.Erica@epa.gov>
Date: February 21, 2017 at 2:36:48 PM EST
To: "Schroer, Lee" <schroer.lee@epa.gov>, "Berol, David" <Berol.David@epa.gov>, "Buffo, Corey" <Buffo.Corey@epa.gov>, "Hisel-Mccoy, Sara" <Hisel-McCoy.Sara@epa.gov>, "Keating, Jim" <Keating.Jim@epa.gov>
Cc: "Crk, Tanja" <Crk.Tanja@epa.gov>
Subject: FW: WA toxic criteria petition

David, I think you had worked with us on this one originally (last we had done was respond to NWEA with questions and answer that her human health criteria portion of the original petition was now moot). More to discuss soon (Lee/David, please let us know if David isn't the OGC lead on this).

-Erica

From: Chung, Angela
Sent: Tuesday, February 21, 2017 2:31 PM
To: Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>
Subject: Fwd: WA toxic criteria petition

FYI

Sent from my iPhone

Begin forwarded message:

From: "Nina Bell" <nbell@advocates-nwea.org>
Date: February 21, 2017 at 11:23:02 AM PST
To: <Chung.angela@Epamail.epa.gov>
Subject: WA toxic criteria petition
Reply-To: <nbell@advocates-nwea.org>

We filed the attached case today.

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212

nbell@advocates-nwea.org

NorthwestEnvironmentalAdvocates.org

503/295-0490

To: heather.bartlett@ecy.wa.gov[heather.bartlett@ecy.wa.gov];
mgil461@ECY.WA.GOV[mgil461@ECY.WA.GOV]
Cc: Psyk, Christine[Psyk.Christine@epa.gov]; Chung, Angela[Chung.Angela@epa.gov]
From: Szelag, Matthew
Sent: Thur 6/1/2017 5:08:50 PM
Subject: Northwest Environmental Advocates (NWEA) petition response
[image2017-06-01-103345.pdf](#)

Hi Heather and Melissa,

Attached please find EPA's final response to the Northwest Environmental Advocates' October 2013 petition for rulemaking in Washington regarding water quality criteria for toxics. Please let us know if you have any questions.

Thanks,

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

222 W 7th Avenue, #19 | Anchorage, AK 99513

P: (907) 271.1208 | szelag.matthew@epa.gov

To: Psyk, Christine[Psyk.Christine@epa.gov]
From: Chung, Angela
Sent: Tue 5/30/2017 9:20:29 PM
Subject: FW: [WA, NWEA Petition Response]: Desk statement

FYI – we haven't heard that Shapiro signed the petition response today so we're assuming it will happen tomorrow or later this week. Matt talked to MacIntyre and shared the HQ desk statement with him. Sounds like Mark will call Ecology (Sandy Howard) and let her know what is in the desk statement. HQ asked us not to share the desk statement with Ecology until Shapiro signs the petition response. Let me know if you have any questions, thanks.

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Szelag, Matthew
Sent: Tuesday, May 30, 2017 9:37 AM
To: Chung, Angela <Chung.Angela@epa.gov>
Subject: FW: [WA, NWEA Petition Response]: Desk statement

FYI

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

222 W 7th Avenue, #19 | Anchorage, AK 99513

P: (907) 271.1208 | szelag.matthew@epa.gov

From: Crk, Tanja
Sent: Friday, May 26, 2017 5:44 AM
To: Barr, Janine <barr.janine@epa.gov>
Cc: Fleisig, Erica <Fleisig.Erica@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>
Subject: [WA, NWEA Petition Response]: Desk statement

Hi Janine,

Please use the below desk statement for the WA NWEA petition denial. We

Ex. 5 - Deliberative Process

Northwest Environmental Advocates Petition Response

Desk Statement

Ex. 5 - Deliberative Process

To: Psyk, Christine[Psyk.Christine@epa.gov]
From: Chung, Angela
Sent: Wed 5/24/2017 5:40:29 PM
Subject: FW: Temporary Delegation of Authority - Northwest Environmental Advocates
NWEA petition denial WA toxics 4 18 2017 clean.docx

Hi Christine,

As I mentioned, we're going to send the petition denial next week to Nina. You already reviewed and concurred. I just wanted to share the final and make sure you're still good with it going out next week. Let me know today if possible.

I've mentioned it to Melissa Gildersleeve (that we were going to deny) a few weeks ago but you may want to mention to Heather if you have one of your calls coming up soon. Sounds like Shapiro plans to sign next Tuesday. Thanks.

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Crk, Tanja
Sent: Wednesday, May 24, 2017 10:27 AM
To: Chung, Angela <Chung.Angela@epa.gov>
Subject: RE: Temporary Delegation of Authority - Northwest Environmental Advocates

No problem, Angela. Please see attached.

This petition denial was sent up to Mike a few weeks ago.

Tanja

From: Chung, Angela
Sent: Wednesday, May 24, 2017 1:25 PM

To: Crk, Tanja <Crk.Tanja@epa.gov>

Subject: RE: Temporary Delegation of Authority - Northwest Environmental Advocates

I'm sorry, petition denial. I don't need the memo to file.

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Crk, Tanja

Sent: Wednesday, May 24, 2017 9:09 AM

To: Berol, David <Berol.David@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szlag, Matthew <Szlag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>

Cc: Schroer, Lee <schroer.lee@epa.gov>

Subject: RE: Temporary Delegation of Authority - Northwest Environmental Advocates

Hi David,

We have the latest memos (petition denial and memo to file) to send to you but waiting to hear final concurrence on the petition denial from R10 before sending over to you. Stay tuned!

Regards,

Tanja

From: Berol, David

Sent: Wednesday, May 24, 2017 9:57 AM

To: Fleisig, Erica <Fleisig.Erica@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Chung,

Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>

Cc: Schroer, Lee <schroer.lee@epa.gov>

Subject: RE: Temporary Delegation of Authority - Northwest Environmental Advocates

Erica --

If you send me the final version I can see about getting the necessary OGC concurrence.

David Berol

U.S. EPA Office of General Counsel

202-564-6873

berol.david@epa.gov

From: Fleisig, Erica

Sent: Wednesday, May 24, 2017 8:40 AM

To: Buffo, Corey <Buffo.Corey@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Berol, David <Berol.David@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>

Cc: Schroer, Lee <schroer.lee@epa.gov>

Subject: Fw: Temporary Delegation of Authority - Northwest Environmental Advocates

Wow! I guess this means we can wrap this one up too. Our next step would be to ask for OGC concurrence on the version that previously went to Mike, assuming we are good to go?

Erica

From: Schroer, Lee

Sent: Wednesday, May 24, 2017 8:29:32 AM

To: Fleisig, Erica

Subject: FW: Temporary Delegation of Authority - Northwest Environmental Advocates

fyi

Lee C. Schroer

Office of General Counsel (Mail Code 2355A)

Room 7518C William Jefferson Clinton Bldg North

Environmental Protection Agency

1200 Pennsylvania Avenue, N.W.

Washington, D.C. 20460

Tel: 202-564-5476

From: Lousberg, Macara

Sent: Wednesday, May 24, 2017 7:22 AM

To: Schroer, Lee <schroer.lee@epa.gov>

Subject: FW: Temporary Delegation of Authority - Northwest Environmental Advocates

FYI Lee, the Administrator signed the Washington State delegation too.

From: Shapiro, Mike

Sent: Tuesday, May 23, 2017 10:12 PM

To: Lousberg, Macara <Lousberg.Macara@epa.gov>; Evalenko, Sandy
<Evalenko.Sandy@epa.gov>

Cc: Best-Wong, Benita <Best-Wong.Benita@epa.gov>

Subject: FW: Temporary Delegation of Authority - Northwest Environmental Advocates

Here's 2 of 2.

Michael Shapiro

Acting Assistant Administrator, Office of Water

US EPA, 4101M

1200 Pennsylvania Ave., NW

Washington, DC 20460

202-564-5700

From: Hope, Brian **On Behalf Of** EPAExecSec

Sent: Tuesday, May 23, 2017 10:52 AM

To: Shapiro, Mike <Shapiro.Mike@epa.gov>

Subject: Temporary Delegation of Authority - Northwest Environmental Advocates

Please see the attached memorandum signed by Administrator Pruitt.

To: Psyk, Christine[Psyk.Christine@epa.gov]
Cc: Guzzo, Lindsay[Guzzo.Lindsay@epa.gov]
From: Chung, Angela
Sent: Tue 4/18/2017 5:00:02 PM
Subject: FW: Florida and Washington Unreasonable Delay Lawsuits
NWEA petition denial WA toxics 4 18 2017 redline.docx

Hi Christine,

FYI, the NWEA petition response/denial is moving along.

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Fleisig, Erica
Sent: Tuesday, April 18, 2017 9:52 AM
To: Hansel, Joel <Hansel.Joel@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Godfrey, Annie <Godfrey.Annie@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Berol, David <Berol.David@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Baschon, Carol <Baschon.Carol@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Ludwig-Monty, Sarah <ludwig-monty.sarah@epa.gov>
Subject: RE: Florida and Washington Unreasonable Delay Lawsuits
Importance: High

Here's the revised WA one in redline.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Erica Fleisig

Physical Scientist, Team Leader

Regional Water Quality Standards Branch, Office of Science and Technology

U.S. Environmental Protection Agency

1200 Pennsylvania Ave, NW (4305T)

Washington, DC 20460

(202) 566-1057 (work)

(202) 566-0409 (fax)

From: Hansel, Joel

Sent: Tuesday, April 18, 2017 12:38 PM

To: Fleisig, Erica <Fleisig.Erica@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Godfrey, Annie <Godfrey.Annie@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Berol, David <Berol.David@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Baschon, Carol <Baschon.Carol@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Ludwig-Monty, Sarah <ludwig-monty.sarah@epa.gov>

Subject: RE: Florida and Washington Unreasonable Delay Lawsuits

I have no objections.

Joel

From: Fleisig, Erica

Sent: Tuesday, April 18, 2017 12:35 PM

To: Hansel, Joel <Hansel.Joel@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Godfrey, Annie <Godfrey.Annie@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Berol, David <Berol.David@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Baschon, Carol <Baschon.Carol@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Ludwig-Monty, Sarah <ludwig-monty.sarah@epa.gov>

Subject: FW: Florida and Washington Unreasonable Delay Lawsuits

FYI – Benita is asking for drafts of the WA and FL petition denials today to give to Sarah Greenwalt (see below). Attached are Betsy's very minor edits to the FL one (I assume R4 and OGC folks won't object to these and I'll clean up and send). I am working on the WA petition denial edits now and will send those asap (also mostly non-substantive).

Erica Fleisig

Physical Scientist, Team Leader

Regional Water Quality Standards Branch, Office of Science and Technology

U.S. Environmental Protection Agency

1200 Pennsylvania Ave, NW (4305T)

Washington, DC 20460

(202) 566-1057 (work)

(202) 566-0409 (fax)

From: Southerland, Elizabeth

Sent: Tuesday, April 18, 2017 12:21 PM

To: Fleisig, Erica <Fleisig.Erica@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>

Subject: Fwd: Florida and Washington Unreasonable Delay Lawsuits

Sent from my iPhone

Begin forwarded message:

From: "Best-Wong, Benita" <Best-Wong.Benita@epa.gov>

Date: April 18, 2017 at 11:46:54 AM EDT

To: "Southerland, Elizabeth" <Southerland.Elizabeth@epa.gov>, "Hisel-Mccoy, Sara" <Hisel-McCoy.Sara@epa.gov>

Subject: FW: Florida and Washington Unreasonable Delay Lawsuits

Betsy/Sara – Do you have a draft response to the petitions that I can share with Sarah? I

Ex. 5 - Deliberative Process

Regards,

Benita

Benita Best-Wong

Acting Deputy Assistant Administrator

Office of Water

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

202-566-1159

From: Greenwalt, Sarah

Sent: Tuesday, April 18, 2017 11:44 AM

To: Best-Wong, Benita <Best-Wong.Benita@epa.gov>

Cc: Dravis, Samantha <dravis.samantha@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>

Subject: RE: Florida and Washington Unreasonable Delay Lawsuits

Benita,

Thanks again for the material. David and others have been working with DOJ on deadlines, so to the extent the decision needed from me was to agree to respond to the petitions by mid-May, I see no problem with that.

If the decision needed from me is whether to deny, then let me know. I understand you have draft denials (or at least a draft of the WA denial) prepared? Would you please send me those drafts?

Thanks!

Sarah A. Greenwalt

Senior Advisor to the Administrator

for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency

Work: 202-564-1722|Cell: 202-816-1388

Greenwalt.Sarah@epa.gov

From: Best-Wong, Benita

Sent: Friday, April 14, 2017 8:07 AM

To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>

Cc: Dravis, Samantha <dravis.samantha@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>

Subject: Florida and Washington Unreasonable Delay Lawsuits

Sarah,

Ex. 5 - Deliberative Process

We'd be happy to answer any questions you have on the litigation/petitions or schedule a briefing for you to provide more details.

Regards,

Benita

Benita Best-Wong

Acting Deputy Assistant Administrator

Office of Water

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

202-566-1159

To: Psyk, Christine[Psyk.Christine@epa.gov]
Cc: Holsman, Marianne[Holsman.Marianne@epa.gov]; Grandinetti, Cami[Grandinetti.Cami@epa.gov]; Beckwith, William[Beckwith.William@epa.gov]
From: Chung, Angela
Sent: Mon 4/10/2017 5:26:37 PM
Subject: RE: Ken Wagner Visit--OWW Topics to Tee-up

Hi Christine,

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

PETITIONS

Washington NWEA petition: On February 21, 2017, NWEA filed an unreasonable delay suit against the EPA in the Western District of Washington. The alleged unreasonable delay is with respect to a petition that NWEA filed on October 28, 2013, and subsequently supplemented on August 31, 2015, and February 9, 2016. NWEA's petition urged EPA to promulgate a federal

rule to update water quality toxics criteria for Washington, for both human health and the protection of aquatic life. In the litigation, NWEA cites that EPA has not yet delivered a response to NWEA's 2013 petition regarding: (1) Human health: EPA did not promulgate human health criteria for the full suite of pollutants that NWEA requested, noting the absence of criteria for arsenic, dioxin, and thallium and, (2) Aquatic life: Washington has not yet adopted revised aquatic life criteria and EPA has not promulgated aquatic life criteria for Washington. EPA sent a preliminary response to NWEA on March 4, 2016 that requested additional information to support the petition request and NWEA replied to EPA on February 21, 2017. We are currently working with HQ on a final response to this petition.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191

Seattle, WA 98101
Phone: 206-553-6511

From: Psyk, Christine

Sent: Thursday, April 06, 2017 4:49 PM

To: Lidgard, Michael <Lidgard.Michael@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Murchie, Peter <Murchie.Peter@epa.gov>; Biaggi, Taylor <biaggi.taylor@epa.gov>; Rylko, Michael <Rylko.Michael@epa.gov>

Cc: Holsman, Marianne <Holsman.Marianne@epa.gov>; Grandinetti, Cami <Grandinetti.Cami@epa.gov>

Subject: Ken Wagner Visit--OWW Topics to Tee-up

Folks, Marianne informed me that next Wednesday, April 12th we are having a visit from Ken Wagner. He is the Senior Advisor for Regional/State Affairs in the Front Office. Part of his visit will include a round table with the ET on Wednesday morning and then from 1:45 p.m. to 2:30 p.m. there's a meeting focused on OWW issues that I will attend to represent OWW issues.

Ex. 5 - Deliberative Process

Again, this is expected to be high level and I've attached the write-ups that we have developed for the RA briefing book. I will look to those for talking points, but I would also like to ask for the following:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

I may ask you for more. I'm not asking for anything long, just bullets that you think might be helpful to emphasize. Thanks.

Christine Psyk, Acting Office Director

EPA Region 10, OWW

206-553-1906

Psyk.christine@epa.gov

From: Grandinetti, Cami

Sent: Thursday, April 06, 2017 12:06 PM

To: Psyk, Christine <Psyk.Christine@epa.gov>

Subject: FW: can you send me the edited version of OWW's RA Handbook submission?

Here's the draft that Marianne is using.

Cami Grandinetti

Acting Associate Director, Office of Water and Watersheds

1200 6th Avenue, Suite 900, OWW-192

Seattle, Wa. 98101

(206) 553-8696 (desk)

(206) 390-8890 (cell)

From: Holsman, Marianne
Sent: Thursday, April 06, 2017 12:02 PM
To: Grandinetti, Cami <Grandinetti.Cami@epa.gov>
Subject: RE: can you send me the edited version of OWW's RA Handbook submission?

Here it is. I have some highlighted notes where we may still need to edit, but I've already sent this to Kevin B., so let's wait to make any additional changes. We can make changes in the final formatted book.

Marianne

Follow us!



From: Grandinetti, Cami
Sent: Thursday, April 06, 2017 11:45 AM
To: Holsman, Marianne <Holsman.Marianne@epa.gov>
Subject: can you send me the edited version of OWW's RA Handbook submission?

Christine is preparing to talk to Ken Wagner next Wednesday and she is going to use the write-ups I submitted for the RA handbook but I know you all probably edited so I thought it would be good for her to see that too. Is it easy to send?

Cami Grandinetti

Acting Associate Director, Office of Water and Watersheds

1200 6th Avenue, Suite 900, OWW-192

Seattle, Wa. 98101

(206) 553-8696 (desk)

(206) 390-8890 (cell)

To: Psyk, Christine[Psyk.Christine@epa.gov]
From: Stern, Allyn
Sent: Wed 9/17/2014 1:00:51 AM
Subject: FW: PLEASE USE THIS VERSION Re: BC and DD-level review: 9/23 WA HH briefing for Ken Kopocis
WA Human Health Criteria Briefing_91514_v2.docx

They're still working on this, but here's the latest version.

Allyn L. Stern

Regional Counsel

U.S. EPA, Region 10

1200 Sixth Avenue, Seattle, WA 98101

206-553-1223

From: Szalay, Endre
Sent: Monday, September 15, 2014 11:08 AM
To: Stern, Allyn; Steiner-Riley, Cara
Subject: FW: PLEASE USE THIS VERSION Re: BC and DD-level review: 9/23 WA HH briefing for Ken Kopocis
Importance: High

Endre

206-553-1073

From: Fleisig, Erica
Sent: Monday, September 15, 2014 11:06 AM
To: Chung, Angela; Opalski, Dan; Schroer, Lee; Buffo, Corey; Keating, Jim; Doyle, Elizabeth; Hisel-Mccoy, Sara; Behl, Betsy
Cc: Szelag, Matthew; Fabiano, Claudia; Ford, Peter; Szalay, Endre; Hoffmann, Rick
Subject: PLEASE USE THIS VERSION Re: BC and DD-level review: 9/23 WA HH briefing for

Ken Kopocis
Importance: High

Sorry! Filing error. Please review this version instead (the attachments are fine, but I attached the wrong main document).

From: Fleisig, Erica
Sent: Monday, September 15, 2014 2:03 PM
To: Chung, Angela; Opalski, Dan; Schroer, Lee; Buffo, Corey; Keating, Jim; Doyle, Elizabeth; Hisel-Mccoy, Sara; Behl, Betsy
Cc: Szelag, Matthew; Fabiano, Claudia; Ford, Peter; Szalay, Endre; Hoffmann, Rick
Subject: BC and DD-level review: 9/23 WA HH briefing for Ken Kopocis

Hi all,

Attached please find a draft briefing document for our 9/23 briefing with Ken K on WA Human Health (along with relevant appendices). This version incorporates edits from Matt, Claudia, Pete, Endre and Rick.

Please review and comment by COB 9/16 if possible, so I can then pass it to Betsy S. for her review before 9/19 (and R10 you can share with Dennis as appropriate).

Thank you!

Erica

To: Opalski, Dan[Opalski.Dan@epa.gov]; Psyk, Christine[Psyk.Christine@epa.gov]; Chung, Angela[Chung.Angela@epa.gov]
Cc: Szelag, Matthew[Szelag.Matthew@epa.gov]
From: Nina Bell
Sent: Mon 10/28/2013 5:18:01 PM
Subject: Petition to EPA Administrator -- WA toxics
[Petition to Update Washington WQS FINAL.pdf](#)
[Petition cover letter.pdf](#)

Dan, Christine, and Angela:

Please find attached the petition to Administrator McCarthy regarding Washington's toxic criteria.

Nina

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212-0187

www.NorthwestEnvironmentalAdvocates.org

nbell@advocates-nwea.org

503/295-0490

To: MacIntyre, Mark[Macintyre.Mark@epa.gov]; Chung, Angela[Chung.Angela@epa.gov]; Szalay, Endre[Szalay.Endre@epa.gov]; Fidis, Alexander[Fidis.Alexander@epa.gov]
Cc: Psyk, Christine[Psyk.Christine@epa.gov]; Holsman, Marianne[Holsman.Marianne@epa.gov]
From: Szlag, Matthew
Sent: Thur 2/23/2017 7:51:15 PM
Subject: RE: Seeking comment on suit against EPA over Washington water toxin standards
NWEA v EPA Complaint Feb 21 2017.pdf

Hi Mark,

I believe Sophia is referring to a separate issue and not the petition from AWB and others on human health.

On Tuesday, we also received a complaint from NWEA for failing to respond within a reasonable time (under the Administrative Procedure Act) to a petition to update the toxics water quality criteria in Washington. This complaint largely focuses on the aquatic life criteria for Washington, not human health (although they do include the human health criteria for three pollutants: arsenic, dioxin, and thallium).

I'm assuming we have a set response for not commenting on current litigation, so I'm not sure what we'd want to provide in the way of a response, if anything beyond that.

Attaching the complaint for you as an FYI. Also adding Alex since he is the lead ORC contact on this one.

Thanks!

Matthew Szlag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

222 W 7th Avenue, #19 | Anchorage, AK 99513

P: (907) 271.1208 | szlag.matthew@epa.gov

From: MacIntyre, Mark
Sent: Thursday, February 23, 2017 10:37 AM
To: Chung, Angela <Chung.Angela@epa.gov>; Szlag, Matthew <Szlag.Matthew@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>
Cc: Psyk, Christine <Psyk.Christine@epa.gov>; Holsman, Marianne

<Holsman.Marianne@epa.gov>

Subject: FW: Seeking comment on suit against EPA over Washington water toxin standards

Can you guys help me untangle this question....didn't we just get the petition? Did they sue us simultaneously?

Need you help.

From: Sophia Morris [<mailto:sophia.morris@law360.com>]

Sent: Thursday, February 23, 2017 10:30 AM

To: MacIntyre, Mark <Macintyre.Mark@epa.gov>

Subject: Seeking comment on suit against EPA over Washington water toxin standards

Hi Mark,

My name is Sophia Morris, and I'm a reporter with Law360. I was looking to get a comment from the agency on a lawsuit filed on Tuesday that claims the EPA failed to respond to a petition to update Washington state's water toxin standards.

Thanks in advance,

Sophia

--

Sophia Morris

News Apprentice

Legal News & Data

860 Broadway, 6th Floor

New York, NY 10003

646783-7172

To: MacIntyre, Mark[Macintyre.Mark@epa.gov]; Chung, Angela[Chung.Angela@epa.gov]; Szelag, Matthew[Szelag.Matthew@epa.gov]
Cc: Psyk, Christine[Psyk.Christine@epa.gov]; Holsman, Marianne[Holsman.Marianne@epa.gov]; Fidis, Alexander[Fidis.Alexander@epa.gov]
From: Szalay, Endre
Sent: Thur 2/23/2017 7:51:05 PM
Subject: RE: Seeking comment on suit against EPA over Washington water toxin standards
NWEA v EPA Complaint Feb 21 2017.pdf

She's asking about the complaint filed by NWEA, attached. They filed a petition in 2013 under the APA for rulemaking related to WA WQS. On February 21, 2017, they filed a complaint alleging EPA failed to timely respond (i.e., grant or deny the petition).

cc-ing Alex.

Endre Szalay

US EPA Region 10

Office of Regional Counsel

206-553-1073

From: MacIntyre, Mark
Sent: Thursday, February 23, 2017 11:37 AM
To: Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>
Cc: Psyk, Christine <Psyk.Christine@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>
Subject: FW: Seeking comment on suit against EPA over Washington water toxin standards

Can you guys help me untangle this question....didn't we just get the petition? Did they sue us simultaneously?

Need you help.

From: Sophia Morris [<mailto:sophia.morris@law360.com>]

Sent: Thursday, February 23, 2017 10:30 AM

To: MacIntyre, Mark <Macintyre.Mark@epa.gov>

Subject: Seeking comment on suit against EPA over Washington water toxin standards

Hi Mark,

My name is Sophia Morris, and I'm a reporter with Law360. I was looking to get a comment from the agency on a lawsuit filed on Tuesday that claims the EPA failed to respond to a petition to update Washington state's water toxin standards.

Thanks in advance,

Sophia

--

Sophia Morris

News Apprentice

Legal News & Data

860 Broadway, 6th Floor

New York, NY 10003

646783-7172

To: Psyk, Christine[Psyk.Christine@epa.gov]; Opalski, Dan[Opalski.Dan@epa.gov]; Stern, Allyn[Stern.Alyn@epa.gov]
From: Chung, Angela
Sent: Tue 2/21/2017 7:36:15 PM
Subject: Fwd: WA toxic criteria petition
NWEA v EPA Complaint Feb 21 2017.pdf
ATT00001.htm

FYI, I forwarded to HQ as well.

Sent from my iPhone

Begin forwarded message:

From: "Nina Bell" <nbell@advocates-nwea.org>
Date: February 21, 2017 at 11:23:02 AM PST
To: <Chung.angela@Epamail.epa.gov>
Subject: WA toxic criteria petition
Reply-To: <nbell@advocates-nwea.org>

We filed the attached case today.

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212

nbell@advocates-nwea.org

NorthwestEnvironmentalAdvocates.org

503/295-0490

To: Chung, Angela[Chung.Angela@epa.gov]
Cc: Holsman, Marianne[Holsman.Marianne@epa.gov]; Grandinetti, Cami[Grandinetti.Cami@epa.gov]; Beckwith, William[Beckwith.William@epa.gov]
From: Psyk, Christine
Sent: Mon 4/10/2017 5:28:08 PM
Subject: RE: Ken Wagner Visit--OWW Topics to Tee-up

Thanks, Angela. Have a great time with the new puppy!

Christine Psyk, Acting Office Director

EPA Region 10, OWW

206-553-1906

Psyk.christine@epa.gov

From: Chung, Angela
Sent: Monday, April 10, 2017 10:27 AM
To: Psyk, Christine <Psyk.Christine@epa.gov>
Cc: Holsman, Marianne <Holsman.Marianne@epa.gov>; Grandinetti, Cami <Grandinetti.Cami@epa.gov>; Beckwith, William <Beckwith.William@epa.gov>
Subject: RE: Ken Wagner Visit--OWW Topics to Tee-up

Hi Christine,

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

PETITIONS

Washington NWEA petition: On February 21, 2017, NWEA filed an unreasonable delay suit against the EPA in the Western District of Washington. The alleged unreasonable delay is with respect to a petition that NWEA filed on October 28, 2013, and subsequently supplemented on August 31, 2015, and February 9, 2016. NWEA's petition urged EPA to promulgate a federal rule to update water quality toxics criteria for Washington, for both human health and the protection of aquatic life. In the litigation, NWEA cites that EPA has not yet delivered a response to NWEA's 2013 petition regarding: (1) Human health: EPA did not promulgate human health criteria for the full suite of pollutants that NWEA requested, noting the absence of criteria for arsenic, dioxin, and thallium and, (2) Aquatic life: Washington has not yet adopted revised aquatic life criteria and EPA has not promulgated aquatic life criteria for Washington. EPA sent a preliminary response to NWEA on March 4, 2016 that requested additional information to support the petition request and NWEA replied to EPA on February 21, 2017. We are currently working with HQ on a final response to this petition.

Ex. 5 - Deliberative Process

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Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Psyk, Christine
Sent: Thursday, April 06, 2017 4:49 PM
To: Lidgard, Michael <Lidgard.Michael@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Murchie, Peter <Murchie.Peter@epa.gov>; Biaggi, Taylor <biaggi.taylor@epa.gov>; Rylko, Michael <Rylko.Michael@epa.gov>
Cc: Holsman, Marianne <Holsman.Marianne@epa.gov>; Grandinetti, Cami <Grandinetti.Cami@epa.gov>
Subject: Ken Wagner Visit--OWW Topics to Tee-up

Folks, Marianne informed me that next Wednesday, April 12th we are having a visit from Ken Wagner. He is the Senior Advisor for Regional/State Affairs in the Front Office. Part of his visit will include a round table with the ET on Wednesday morning and then from 1:45 p.m. to

2:30 p.m. there's a meeting focused on OWW issues that I will attend to represent OWW issues.

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Again, this is expected to be high level and I've attached the write-ups that we have developed for the RA briefing book. I will look to those for talking points, but I would also like to ask for the following:

Ex. 5 - Deliberative Process

I may ask you for more. I'm not asking for anything long, just bullets that you think might be helpful to emphasize. Thanks.

Christine Psyk, Acting Office Director

EPA Region 10, OWW

206-553-1906

Psyk.christine@epa.gov

From: Grandinetti, Cami
Sent: Thursday, April 06, 2017 12:06 PM
To: Psyk, Christine <Psyk.Christine@epa.gov>
Subject: FW: can you send me the edited version of OWW's RA Handbook submission?

Here's the draft that Marianne is using.

Cami Grandinetti
Acting Associate Director, Office of Water and Watersheds
1200 6th Avenue, Suite 900, OWW-192
Seattle, Wa. 98101
(206) 553-8696 (desk)
(206) 390-8890 (cell)

From: Holsman, Marianne
Sent: Thursday, April 06, 2017 12:02 PM
To: Grandinetti, Cami <Grandinetti.Cami@epa.gov>
Subject: RE: can you send me the edited version of OWW's RA Handbook submission?

Here it is. I have some highlighted notes where we may still need to edit, but I've already sent this to Kevin B., so let's wait to make any additional changes. We can make changes in the final formatted book.

Marianne

Follow us!



From: Grandinetti, Cami

Sent: Thursday, April 06, 2017 11:45 AM

To: Holsman, Marianne <Holsman.Marianne@epa.gov>

Subject: can you send me the edited version of OWW's RA Handbook submission?

Christine is preparing to talk to Ken Wagner next Wednesday and she is going to use the write-ups I submitted for the RA handbook but I know you all probably edited so I thought it would be good for her to see that too. Is it easy to send?

Cami Grandinetti

Acting Associate Director, Office of Water and Watersheds

1200 6th Avenue, Suite 900, OWW-192

Seattle, Wa. 98101

(206) 553-8696 (desk)

(206) 390-8890 (cell)

From: Crk, Tanja
Location: HQ-Room-WJCW-6124-50pp
Importance: Normal
Subject: WA Toxic Criteria and AWB Petitions
Start Date/Time: Tue 3/7/2017 6:00:00 PM
End Date/Time: Tue 3/7/2017 7:00:00 PM
[NWEA v EPA Complaint Feb 21 2017.pdf](#)
[NWEA petition response.pdf](#)

Ex. 5 - Deliberative Process

[New CWA Unreasonable Delay Lawsuit to Respond to Administrative Petition Regarding Washington WQS](#)

Dial in: 1-866-299-3188; Code

Ex. 6 - Personal Privacy

Note that this is an EPA (internal) meeting for staff and BCs to discuss two petitions: 1) the complaint by NWEA regarding EPA's response (or failure to respond) to the NWEA petition to update the WQC for toxics in WA and includes a no action reference on arsenic, dioxin, and thallium;

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Agenda

1. Discuss the WA petition from NWEA

[New CWA Unreasonable Delay Lawsuit to Respond to Administrative Petition Regarding Washington WQS 2017-02-15 WTR Petition for Rulemaking FINAL.PDF](#)

Response to NWEA May 2016. Is there an email record of sending this petition response to Nina?

Ex. 5 - Deliberative Process

From: Fleisig, Erica
Location: DCRoomWest6105ERockCreek/DC-EPA-West-OST
Importance: Normal
Subject: Discuss NWEA petition for WA ALC and possible response
Start Date/Time: Tue 3/15/2016 8:00:00 PM
End Date/Time: Tue 3/15/2016 9:00:00 PM
Petition to Update Washington WQS FINAL (3).pdf
Petition follow up letter Aug 31 2015.pdf
Second follow up letter.pdf

Assuming we get an extension on our response from 3/3 to the first week in April, we wanted to have a discussion about our response. Scheduling this for when Matt is back in the office, which will still give us ~3 weeks to develop a response.

Call-in: 1-866-299-3188, code Ex. 6 - Personal Privacy

Adding Matt and David's exchange below, and attaching the petition docs:

Hi David,
Thanks for taking the time to summarize the series of petitions for everyone. Ultimately, I think we'll need manage

From: Fleisig, Erica
Location: DCRoomWest6105ERockCreek/DC-EPA-West-OST
Importance: Normal
Subject: Discuss NWEA petition for WA ALC and possible response
Start Date/Time: Tue 3/15/2016 8:00:00 PM
End Date/Time: Tue 3/15/2016 9:00:00 PM
[Petition to Update Washington WQS FINAL \(3\).pdf](#)
[Petition follow up letter Aug 31 2015.pdf](#)
[Second follow up letter.pdf](#)

Assuming we get an extension on our response from 3/3 to the first week in April, we wanted to have a discussion about our response. Scheduling this for when Matt is back in the office, which will still give us ~3 weeks to develop a response.

Call-in: 1-866-299-3188, code Ex. 6 - Personal Privacy

Adding Matt and David's exchange below, and attaching the petition docs:

Hi David,

Thanks for taking the time to summarize the series of petitions for everyone. Ultimately, I think we'll need management to decide on the approach we would want to take on a potential response (adding Angela) and I'm happy to set up a conversation if we want to talk about the pros and cons you've described. As Erica stated, we spent some time writing up a draft response to the petition (attached) which is now a bit outdated with the latest follow up letter from NWEA.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

I've answered some of your questions in red below.

- **Ex. 5 - Attorney Client**

- **Ex. 5 - Attorney Client**

- **Ex. 5 - Attorney Client**

Ex. 5 - Attorney Client

- In their August 31, 2015 follow-up letter, they have three main arguments:
 - The Oregon and Idaho BiOps called jeopardy on arsenic, copper, selenium, cyanide, and mercury and show that Washington needs to revise their criteria for these pollutants:

Ex. 5 - Attorney Client

- The Orca Recovery Plans show that Washington needs tougher WQS:

Ex. 5 - Attorney Client

- The Services' criticism of the Industrial Stormwater General Permit shows that Washington needs tougher WQS, for copper in particular.

Ex. 5 - Attorney Client

To: Szelag, Matthew[Szelag.Matthew@epa.gov]; Fidis, Alexander[Fidis.Alexander@epa.gov]; Berol, David[Berol.David@epa.gov]; Buffo, Corey[Buffo.Corey@epa.gov]; Schroer, Lee[schroer.lee@epa.gov]; Chung, Angela[Chung.Angela@epa.gov]
Cc: Fabiano, Claudia[Fabiano.Claudia@epa.gov]
From: Fleisig, Erica
Sent: Mon 2/22/2016 7:18:47 PM
Subject: FW: a CMS is coming your way from Nina Bell Re: Petition for Rulemaking on Water Quality Criteria for Toxics in the State of Washington

FYI that we are due to respond to Nina's petition by 3/3 (signed at the DD level). Do we want that to be the more substantive response that David suggested? Do we want to try to get an extension so we can develop the more substantive response?

From: Fabiano, Claudia
Sent: Monday, February 22, 2016 2:12 PM
To: Fleisig, Erica <Fleisig.Erica@epa.gov>
Subject: FW: a CMS is coming your way from Nina Bell Re: Petition for Rulemaking on Water Quality Criteria for Toxics in the State of Washington

From: Washington, Evelyn
Sent: Monday, February 22, 2016 1:23 PM
To: Buffo, Corey <Buffo.Corey@epa.gov>; Keating, Jim <Keating.Jim@epa.gov>; Fabiano, Claudia <Fabiano.Claudia@epa.gov>
Cc: Hisel-McCoy, Sara <Hisel-McCoy.Sara@epa.gov>; Barash, Shari <Barash.Shari@epa.gov>
Subject: a CMS is coming your way from Nina Bell Re: Petition for Rulemaking on Water Quality Criteria for Toxics in the State of Washington

This is her Second Follow Up to October 28, 2013 Northwest Environmental Advocates' Petition on this subject.

Northwest Environmental Advocates sent a petition to update the State of Washington's aquatic life criteria in its water quality standards on October 28, 2013. We did not respond.

On August 31, 2015 they sent a follow-up letter urging us to respond. We wrote thanking them for our "valuable input" on the matter but provided no info on when/if we intend to respond to the petition.

This new letter points out minor errors in the original petition and that EPA cannot rely upon the state to do what it should and how inexcusable it is that EPA has not taken any steps to bring WA's water quality standards for toxics up to date. And once again, they urge us to grant the petition.

The due date for the response is March 3 and it is a Direct Reply meaning the DD will sign it.

From: Crk, Tanja
Location: HQ-Room-WJCW-6124-50pp
Importance: Normal
Subject: WA Toxic Criteria and AWB Petitions
Start Date/Time: Tue 3/7/2017 6:00:00 PM
End Date/Time: Tue 3/7/2017 7:00:00 PM
[NWEA v EPA Complaint Feb 21 2017.pdf](#)
[NWEA petition response.pdf](#)
[2017-02-15 WTR Petition for Rulemaking FINAL.PDF](#)

Ex. 5 - Attorney Client

Ex. 5 - Deliberative Process

aint
C
VB

?

To: Schroer, Lee[schroer.lee@epa.gov]
From: Berol, David
Sent: Tue 11/5/2013 8:11:54 PM
Subject: FW: Petition to EPA Administrator -- WA toxics
Petition to Update Washington WQS FINAL.PDF
Petition cover letter.pdf

Sorry for delay in forwarding...

David Berol

U.S. EPA Office of General Counsel

202-564-6873

berol.david@epa.gov

From: Fabiano, Claudia
Sent: Monday, October 28, 2013 3:30 PM
To: Hisel-Mccoy, Sara; Behl, Betsy; Gallagher, Kathryn; Doyle, Elizabeth; Keating, Jim
Cc: Galer, Rose; Berol, David; Buffo, Corey
Subject: RE: Petition to EPA Administrator -- WA toxics

We received a petition from NWEA asking EPA to update WA's human health and aquatic life criteria (most have not been revised since 1992). I haven't read this yet (and it's pretty long), but wanted to share with you.

From: Galer, Rose
Sent: Monday, October 28, 2013 2:15 PM
To: Berol, David; Buffo, Corey
Cc: Fabiano, Claudia
Subject: FW: Petition to EPA Administrator -- WA toxics

FYI...here is the petition from Nina regarding WA WQS.

From: Szelag, Matthew
Sent: Monday, October 28, 2013 11:11 AM
To: Galer, Rose; Fabiano, Claudia
Cc: Chung, Angela
Subject: FW: Petition to EPA Administrator -- WA toxics

FYI – I haven't read this yet, but my understanding is that it includes human health and aquatic life. Could you please share with the appropriate folks at HQ?

Thanks,

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

1200 6th Avenue, Suite 900, OWW-131 | Seattle, WA 98101

P: (206) 553.5171 | szelag.matthew@epa.gov

From: Nina Bell [<mailto:nbell@advocates-nwea.org>]
Sent: Monday, October 28, 2013 10:18 AM
To: Opalski, Dan; Psyk, Christine; Chung, Angela
Cc: Szelag, Matthew
Subject: Petition to EPA Administrator -- WA toxics

Dan, Christine, and Angela:

Please find attached the petition to Administrator McCarthy regarding Washington's toxic criteria.

Nina

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212-0187

www.NorthwestEnvironmentalAdvocates.org

nbell@advocates-nwea.org

503/295-0490

To: Schroer, Lee[schroer.lee@epa.gov]
From: Neugeboren, Steven
Sent: Wed 5/24/2017 9:45:53 PM
Subject: FW: Temporary Delegation of Authority - Northwest Environmental Advocates
NWEA petition denial WA toxics 4 18 2017 clean.docx
WASHINGTON One-Time Delegation re WQ Toxics 04-27-17.pdf
Temporary Delegation.NWEA.5.22.17.pdf
NWEA petition WA toxics 2017 Memo to the File prefinalMay24.docx

Interested in your thoughts on this

Steven Neugeboren

Associate General Counsel

Water Law Office

Environmental Protection Agency

202-564-5488

From: Berol, David
Sent: Wednesday, May 24, 2017 3:46 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Cc: Schroer, Lee <schroer.lee@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>
Subject: FW: Temporary Delegation of Authority - Northwest Environmental Advocates

Steve –

Here's the final decision package on the Washington AL petition.

This is to moot an unreasonable delay claim in responding to the petition.

We told the court the following: "Defendant projects to be in a position to grant or deny Plaintiff's petition within approximately 60 days of the current due date for the Joint Conference Report, April 24, 2017, which would moot Plaintiff's claim."

So this works out to a response by mid-June.

How would you like the final OGC review process to proceed?

David Berol

U.S. EPA Office of General Counsel

202-564-6873

berol.david@epa.gov

From: Crk, Tanja

Sent: Wednesday, May 24, 2017 2:19 PM

To: Berol, David <Berol.David@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>

Cc: Schroer, Lee <schroer.lee@epa.gov>

Subject: RE: Temporary Delegation of Authority - Northwest Environmental Advocates

Hi David,

We received concurrence from R10 on the petition denial (please see attached). The other attachments are Mike's one-time delegation request to OHR signed April 27, 2017 and Pruitt's sign-off on the temporary delegation (with two dates May 16, 2017 in the doc and May 22, 2017 in the file name).

The memo to file is also attached as an FYI. There's an accompanying excel spreadsheet for the memo to file – let me know if you would like to have the spreadsheet as well.

Regards,

Tanja

From: Crk, Tanja

Sent: Wednesday, May 24, 2017 12:09 PM

To: Berol, David <Berol.David@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>

Cc: Schroer, Lee <schroer.lee@epa.gov>

Subject: RE: Temporary Delegation of Authority - Northwest Environmental Advocates

Hi David,

We have the latest memos (petition denial and memo to file) to send to you but waiting to hear final concurrence on the petition denial from R10 before sending over to you. Stay tuned!

Regards,

Tanja

From: Berol, David

Sent: Wednesday, May 24, 2017 9:57 AM

To: Fleisig, Erica <Fleisig.Erica@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>

Cc: Schroer, Lee <schroer.lee@epa.gov>

Subject: RE: Temporary Delegation of Authority - Northwest Environmental Advocates

Erica --

If you send me the final version I can see about getting the necessary OGC concurrence.

David Berol

U.S. EPA Office of General Counsel

202-564-6873

berol.david@epa.gov

From: Fleisig, Erica

Sent: Wednesday, May 24, 2017 8:40 AM

To: Buffo, Corey <Buffo.Corey@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Berol, David <Berol.David@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>

Cc: Schroer, Lee <schroer.lee@epa.gov>

Subject: Fw: Temporary Delegation of Authority - Northwest Environmental Advocates

Wow! I guess this means we can wrap this one up too. Our next step would be to ask for OGC concurrence on the version that previously went to Mike, assuming we are good to go?

Erica

From: Schroer, Lee

Sent: Wednesday, May 24, 2017 8:29:32 AM

To: Fleisig, Erica

Subject: FW: Temporary Delegation of Authority - Northwest Environmental Advocates

fyi

Lee C. Schroer

Office of General Counsel (Mail Code 2355A)

Room 7518C William Jefferson Clinton Bldg North

Environmental Protection Agency

1200 Pennsylvania Avenue, N.W.

Washington, D.C. 20460

Tel: 202-564-5476

From: Lousberg, Macara

Sent: Wednesday, May 24, 2017 7:22 AM

To: Schroer, Lee <schroer.lee@epa.gov>

Subject: FW: Temporary Delegation of Authority - Northwest Environmental Advocates

FYI Lee, the Administrator signed the Washington State delegation too.

From: Shapiro, Mike

Sent: Tuesday, May 23, 2017 10:12 PM

To: Lousberg, Macara <Lousberg.Macara@epa.gov>; Evalenko, Sandy
<Evalenko.Sandy@epa.gov>

Cc: Best-Wong, Benita <Best-Wong.Benita@epa.gov>

Subject: FW: Temporary Delegation of Authority - Northwest Environmental Advocates

Here's 2 of 2.

Michael Shapiro

Acting Assistant Administrator, Office of Water

US EPA, 4101M

1200 Pennsylvania Ave., NW

Washington, DC 20460

202-564-5700

From: Hope, Brian **On Behalf Of** EPAExecSec
Sent: Tuesday, May 23, 2017 10:52 AM
To: Shapiro, Mike <Shapiro.Mike@epa.gov>
Subject: Temporary Delegation of Authority - Northwest Environmental Advocates

Please see the attached memorandum signed by Administrator Pruitt.

To: Neugeboren, Steven[Neugeboren.Steven@epa.gov]; Berol, David[Berol.David@epa.gov]
From: Schroer, Lee
Sent: Thur 5/25/2017 12:30:06 PM
Subject: STEVE: Denial of NWEA Washington WQS petition looks good
NWEA petition denial WA toxics 4 18 2017 clean.LCS edits.docx

Steve,

I think the attached five-page denial of NWEA's Washington WQS petition is in good shape. David and Pete worked closely with OST and R10 in drafting the response. Still resolving

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Lee C. Schroer

Office of General Counsel (Mail Code 2355A)

Room 7518C William Jefferson Clinton Bldg North

Environmental Protection Agency

1200 Pennsylvania Avenue, N.W.

Washington, D.C. 20460

Tel: 202-564-5476

From: Berol, David

Sent: Wednesday, May 24, 2017 10:24 PM

To: Szelag, Matthew <Szelag.Matthew@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>

Cc: Crk, Tanja <Crk.Tanja@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>

Subject: Re: Temporary Delegation of Authority - Northwest Environmental Advocates

Ex. 5 - Deliberative Process

Ex. 5 - Attorney Client

From: Szelag, Matthew
Sent: Wednesday, May 24, 2017 8:08:18 PM
To: Chung, Angela; Berol, David; Fleisig, Erica
Cc: Crk, Tanja; Buffo, Corey; Schroer, Lee
Subject: RE: Temporary Delegation of Authority - Northwest Environmental Advocates

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

222 W 7th Avenue, #19 | Anchorage, AK 99513

P: (907) 271.1208 | szelag.matthew@epa.gov

From: Chung, Angela

Sent: Wednesday, May 24, 2017 2:24 PM

To: Berol, David <Berol.David@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>

Cc: Crk, Tanja <Crk.Tanja@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>

Subject: RE: Temporary Delegation of Authority - Northwest Environmental Advocates

ATTORNEY CLIENT COMMUNICATION

Ex. 5 - Attorney Client

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Berol, David
Sent: Wednesday, May 24, 2017 2:34 PM
To: Fleisig, Erica <Fleisig.Erica@epa.gov>
Cc: Crk, Tanja <Crk.Tanja@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: Re: Temporary Delegation of Authority - Northwest Environmental Advocates

Attorney Client Privileged; Deliberative

Erica --

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

-- David Berol

U.S. EPA Office of General Counsel

202-564-6873

On May 24, 2017, at 3:42 PM, Fleisig, Erica <Fleisig.Erica@epa.gov> wrote:

I think I only mentioned this to a few people, but Mike is expecting to sign on Tuesday 5/30. If we aren't going to meet that, please let us know so we can notify up the chain. Thanks!

Erica Fleisig

Physical Scientist, Team Leader

Regional Water Quality Standards Branch, Office of Science and Technology

U.S. Environmental Protection Agency

1200 Pennsylvania Ave, NW (4305T)

Washington, DC 20460

(202) 566-1057 (work)

(202) 566-0409 (fax)

From: Berol, David

Sent: Wednesday, May 24, 2017 3:41 PM

To: Crk, Tanja <Crk.Tanja@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>

Cc: Schroer, Lee <schroer.lee@epa.gov>

Subject: RE: Temporary Delegation of Authority - Northwest Environmental Advocates

Thanks Tanja. I'd like to take a couple of days to go over this again and discuss within OGC.

David Berol

U.S. EPA Office of General Counsel

202-564-6873

berol.david@epa.gov

From: Crk, Tanja

Sent: Wednesday, May 24, 2017 2:19 PM

To: Berol, David <Berol.David@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>

Cc: Schroer, Lee <schroer.lee@epa.gov>

Subject: RE: Temporary Delegation of Authority - Northwest Environmental Advocates

Hi David,

We received concurrence from R10 on the petition denial (please see attached). The other attachments are Mike's one-time delegation request to OHR signed April 27, 2017 and Pruitt's sign-off on the temporary delegation (with two dates May 16, 2017 in the doc and May 22, 2017 in the file name).

The memo to file is also attached as an FYI. There's an accompanying excel spreadsheet for the memo to file – let me know if you would like to have the spreadsheet as well.

Regards,

Tanja

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Sent: Wednesday, May 24, 2017 12:09 PM

To: Berol, David <Berol.David@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>

Cc: Schroer, Lee <schroer.lee@epa.gov>

Subject: RE: Temporary Delegation of Authority - Northwest Environmental Advocates

Hi David,

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Regards,

Tanja

From: Berol, David

Sent: Wednesday, May 24, 2017 9:57 AM

To: Fleisig, Erica <Fleisig.Erica@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>

Cc: Schroer, Lee <schroer.lee@epa.gov>

Subject: RE: Temporary Delegation of Authority - Northwest Environmental Advocates

Erica --

If you send me the final version I can see about getting the necessary OGC concurrence.

David Berol

U.S. EPA Office of General Counsel

202-564-6873

berol.david@epa.gov

From: Fleisig, Erica
Sent: Wednesday, May 24, 2017 8:40 AM
To: Buffo, Corey <Buffo.Corey@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Berol, David <Berol.David@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>
Cc: Schroer, Lee <schroer.lee@epa.gov>
Subject: Fw: Temporary Delegation of Authority - Northwest Environmental Advocates

Wow! I guess this means we can wrap this one up too. Our next step would be to ask for OGC concurrence on the version that previously went to Mike, assuming we are good to go?

Erica

From: Schroer, Lee
Sent: Wednesday, May 24, 2017 8:29:32 AM
To: Fleisig, Erica
Subject: FW: Temporary Delegation of Authority - Northwest Environmental Advocates

fyi

Lee C. Schroer

Office of General Counsel (Mail Code 2355A)

Room 7518C William Jefferson Clinton Bldg North

Environmental Protection Agency

1200 Pennsylvania Avenue, N.W.

Washington, D.C. 20460

Tel: 202-564-5476

From: Lousberg, Macara
Sent: Wednesday, May 24, 2017 7:22 AM
To: Schroer, Lee <schroer.lee@epa.gov>
Subject: FW: Temporary Delegation of Authority - Northwest Environmental Advocates

FYI Lee, the Administrator signed the Washington State delegation too.

From: Shapiro, Mike
Sent: Tuesday, May 23, 2017 10:12 PM
To: Lousberg, Macara <Lousberg.Macara@epa.gov>; Evalenko, Sandy <Evalenko.Sandy@epa.gov>
Cc: Best-Wong, Benita <Best-Wong.Benita@epa.gov>
Subject: FW: Temporary Delegation of Authority - Northwest Environmental Advocates

Here's 2 of 2.

Michael Shapiro

Acting Assistant Administrator, Office of Water

US EPA, 4101M

1200 Pennsylvania Ave., NW

Washington, DC 20460

202-564-5700

From: Hope, Brian **On Behalf Of** EPAExecSec
Sent: Tuesday, May 23, 2017 10:52 AM
To: Shapiro, Mike <Shapiro.Mike@epa.gov>
Subject: Temporary Delegation of Authority - Northwest Environmental Advocates

Please see the attached memorandum signed by Administrator Pruitt.

To: Martin, Jeanette[Martin.Jeanette@epa.gov]
From: Southerland, Elizabeth
Sent: Thur 4/13/2017 6:51:44 PM
Subject: FW: Draft FL and WA Petition Denials
NWEA petition denial WA toxics 4 12 2017.docx
WA Toxics Del of Authority Letter 04 11 17.doc
WA Toxics Petition Transmittal Memo OD to AAA 04 11 17.docx
FL Toxics Deleg of Auth Letter 4 12 2017.docx
FL Toxics Deleg of Auth OD To DAA 4 12 2017.docx
FLHHCPetitionResponse 4 13 2017.docx

Please copy and give to me. Thanks!

From: Buffo, Corey
Sent: Thursday, April 13, 2017 12:43 PM
To: Southerland, Elizabeth <Southerland.Elizabeth@epa.gov>
Cc: Fleisig, Erica <Fleisig.Erica@epa.gov>; Washington, Evelyn <Washington.Evelyn@epa.gov>; Christensen, Christina <Christensen.Christina@epa.gov>
Subject: Draft FL and WA Petition Denials

Hi Betsy. Attached for your review are the FL HHC and WA AL petition denials and one time delegations to Mike. After you give the green light, we thought we'd send them up in a blue folder and cross our fingers. We are about a month away from fees and court processes beginning in WA, which is a bit more complicated than FL.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Thanks! if you would like a briefing just let us know.

To: Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]
Cc: Stern, Allyn[Stern.Alyn@epa.gov]; Szalay, Endre[Szalay.Endre@epa.gov]
From: Fidis, Alexander
Sent: Fri 5/26/2017 4:29:55 PM
Subject: FW: Temporary Delegation of Authority - Northwest Environmental Advocates
NWEA petition denial WA toxics 5 26 2017 clean.docx

Attached is the petition response prepared to respond to NWEA's 2013 petition re: EPA promulgation of water quality criteria for Washington. It's been reviewed and edited by R10, OGC and OW. As a quick reminder, the 2013 petition addressed both human health and aquatic life criteria. EPA and WA addressed all human health criteria except 3 last year. In February 2017, NWEA sued EPA for unreasonable delay in responding to petition for the 3 remaining human health and aquatic life criteria. We negotiated an extension of our answer to the end of June 2017 on the basis that we would respond to the petition and moot out the case. Attached is our response denying the petition.

Since the petition requests that EPA promulgate criteria using an Administrator's determination under 303(c)(4)(B), the Administrator has the authority to respond. In conjunction with the petition response EPA also prepared a one-time delegation from the Administrator to OW AA to respond to the petition. So we are on track to moot out the case. Apparently we can be very decisive in denying petitions.

From: Crk, Tanja
Sent: Friday, May 26, 2017 8:48 AM
To: Fleisig, Erica <Fleisig.Erica@epa.gov>; Berol, David <Berol.David@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>
Cc: Szelag, Matthew <Szelag.Matthew@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>
Subject: RE: Temporary Delegation of Authority - Northwest Environmental Advocates

Hello all,

The clean copy is attached for OGC concurrence.

Regards,

Tanja

From: Fleisig, Erica
Sent: Friday, May 26, 2017 10:52 AM
To: Berol, David <Berol.David@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>
Cc: Szelag, Matthew <Szelag.Matthew@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>
Subject: RE: Temporary Delegation of Authority - Northwest Environmental Advocates

Looks good to me too. Tanja will send around a clean copy shortly. Thanks!

Erica Fleisig

Physical Scientist, Team Leader

Regional Water Quality Standards Branch, Office of Science and Technology

U.S. Environmental Protection Agency

1200 Pennsylvania Ave, NW (4305T)

Washington, DC 20460

(202) 566-1057 (work)

(202) 566-0409 (fax)

From: Berol, David
Sent: Friday, May 26, 2017 9:21 AM
To: Chung, Angela <Chung.Angela@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>
Cc: Szelag, Matthew <Szelag.Matthew@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>
Subject: RE: Temporary Delegation of Authority - Northwest Environmental Advocates

All –

Here are final suggested edits from OGC. If these edits are acceptable to EPA, Erica, would you please send me back a clean final copy?

I don't think it will take long to authorize an OGC concurrence, but Lee thought it would be best to do the concurrence on a clean document.

David Berol

U.S. EPA Office of General Counsel

202-564-6873

berol.david@epa.gov

To: Stern, Allyn[Stern.Allyn@epa.gov]
From: Steiner-Riley, Cara
Sent: Tue 5/30/2017 6:06:52 PM
Subject: FW: Temporary Delegation of Authority - Northwest Environmental Advocates
NWEA petition denial WA toxics 5 26 2017 clean.docx

Here is the response. We both got it on Friday from Alex.

From: Fidis, Alexander
Sent: Friday, May 26, 2017 9:30 AM
To: Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>
Cc: Stern, Allyn <Stern.Allyn@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>
Subject: FW: Temporary Delegation of Authority - Northwest Environmental Advocates

Attached is the petition response prepared to respond to NWEA's 2013 petition re: EPA promulgation of water quality criteria for Washington. It's been reviewed and edited by R10, OGC and OW. As a quick reminder, the 2013 petition addressed both human health and aquatic life criteria. EPA and WA addressed all human health criteria except 3 last year. In February 2017, NWEA sued EPA for unreasonable delay in responding to petition for the 3 remaining human health and aquatic life criteria. We negotiated an extension of our answer to the end of June 2017 on the basis that we would respond to the petition and moot out the case. Attached is our response denying the petition.

Since the petition requests that EPA promulgate criteria using an Administrator's determination under 303(c)(4)(B), the Administrator has the authority to respond. In conjunction with the petition response EPA also prepared a one-time delegation from the Administrator to OW AA to respond to the petition. So we are on track to moot out the case. Apparently we can be very decisive in denying petitions.

From: Crk, Tanja
Sent: Friday, May 26, 2017 8:48 AM
To: Fleisig, Erica <Fleisig.Erica@epa.gov>; Berol, David <Berol.David@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>
Cc: Szlag, Matthew <Szlag.Matthew@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>
Subject: RE: Temporary Delegation of Authority - Northwest Environmental Advocates

Hello all,

The clean copy is attached for OGC concurrence.

Regards,

Tanja

From: Fleisig, Erica
Sent: Friday, May 26, 2017 10:52 AM
To: Berol, David <Berol.David@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>
Cc: Szelag, Matthew <Szelag.Matthew@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>
Subject: RE: Temporary Delegation of Authority - Northwest Environmental Advocates

Looks good to me too. Tanja will send around a clean copy shortly. Thanks!

Erica Fleisig

Physical Scientist, Team Leader

Regional Water Quality Standards Branch, Office of Science and Technology

U.S. Environmental Protection Agency

1200 Pennsylvania Ave, NW (4305T)

Washington, DC 20460

(202) 566-1057 (work)

(202) 566-0409 (fax)

From: Berol, David
Sent: Friday, May 26, 2017 9:21 AM
To: Chung, Angela <Chung.Angela@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>

Cc: Szelag, Matthew <Szelag.Matthew@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>
Subject: RE: Temporary Delegation of Authority - Northwest Environmental Advocates

All –

Here are final suggested edits from OGC. If these edits are acceptable to EPA, Erica, would you please send me back a clean final copy?

I don't think it will take long to authorize an OGC concurrence, but Lee thought it would be best to do the concurrence on a clean document.

David Berol

U.S. EPA Office of General Counsel

202-564-6873

berol.david@epa.gov

To: Szalay, Endre[Szalay.Endre@epa.gov]
From: Ford, Peter
Sent: Tue 2/21/2017 9:32:43 PM
Subject: RE: WA toxic criteria petition

...

Hey, is this a new case, and if so, is it related to our HHC rule? I'm transferring out of WQS except for the ME/WA/ID tribal stuff. Thanks, man.

Peter Z. Ford

U.S. EPA Office of General Counsel

202.564.5593

From: Szalay, Endre
Sent: Tuesday, February 21, 2017 3:24 PM
To: Ford, Peter
Subject: FW: WA toxic criteria petition

You might have seen this already, but forwarding just in case.

Endre Szalay

US EPA Region 10

Office of Regional Counsel

206-553-1073

From: Chung, Angela
Sent: Tuesday, February 21, 2017 11:31 AM
To: Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>
Subject: Fwd: WA toxic criteria petition

FYI

Sent from my iPhone

Begin forwarded message:

From: "Nina Bell" <nbell@advocates-nwea.org>
Date: February 21, 2017 at 11:23:02 AM PST

To: <Chung.angela@Epamail.epa.gov>
Subject: WA toxic criteria petition
Reply-To: <nbell@advocates-nwea.org>

We filed the attached case today.

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212

nbell@advocates-nwea.org

NorthwestEnvironmentalAdvocates.org

503/295-0490

To: Szalay, Endre[Szalay.Endre@epa.gov]; Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]
From: Fidis, Alexander
Sent: Tue 2/21/2017 9:36:32 PM
Subject: RE: WA toxic criteria petition

Ex. 5 - Attorney Client

From: Szalay, Endre
Sent: Tuesday, February 21, 2017 12:23 PM
To: Steiner-Riley, Cara ; Fidis, Alexander
Subject: RE: WA toxic criteria petition

Ex. 5 - Attorney Client

Endre Szalay

US EPA Region 10

Office of Regional Counsel

206-553-1073

From: Chung, Angela
Sent: Tuesday, February 21, 2017 11:31 AM
To: Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay
<Guzzo.Lindsay@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Szalay, Endre
<Szalay.Endre@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Fleisig, Erica
<Fleisig.Erica@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Buffo, Corey
<Buffo.Corey@epa.gov>
Subject: Fwd: WA toxic criteria petition

FYI

Sent from my iPhone

Begin forwarded message:

From: "Nina Bell" <nbell@advocates-nwea.org>

Date: February 21, 2017 at 11:23:02 AM PST

To: <Chung.angela@Epamail.epa.gov>

Subject: WA toxic criteria petition

Reply-To: <nbell@advocates-nwea.org>

We filed the attached case today.

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212

nbell@advocates-nwea.org

NorthwestEnvironmentalAdvocates.org

503/295-0490

To: Fleisig, Erica[Fleisig.Erica@epa.gov]; Berol, David[Berol.David@epa.gov]
Cc: Crk, Tanja[Crk.Tanja@epa.gov]; Chung, Angela[Chung.Angela@epa.gov]; Guzzo, Lindsay[Guzzo.Lindsay@epa.gov]; Szalay, Endre[Szalay.Endre@epa.gov]; Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]; Fidis, Alexander[Fidis.Alexander@epa.gov]; Buffo, Corey[Buffo.Corey@epa.gov]; Ford, Peter[Ford.Peter@epa.gov]; Schroer, Lee[schroer.lee@epa.gov]
From: Szelag, Matthew
Sent: Tue 3/7/2017 5:51:24 PM
Subject: RE: WA Toxic Criteria and AWB Petitions
Draft WA comparison chart 3 6 17.xlsx

.....
Hi all,

Ex. 5 - Deliberative Process

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Talk to you soon and thanks to Erica for helping pull this information together.

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

222 W 7th Avenue, #19 | Anchorage, AK 99513

P: (907) 271.1208 | szelag.matthew@epa.gov

From: Fleisig, Erica

Sent: Tuesday, March 07, 2017 4:24 AM

To: Berol, David

Cc: Crk, Tanja ; Chung, Angela ; Szelag, Matthew ; Guzzo, Lindsay ; Szalay, Endre ; Steiner-Riley, Cara ; Fidis, Alexander ; Buffo, Corey ; Ford, Peter ; Schroer, Lee

Subject: Re: WA Toxic Criteria and AWB Petitions

David and others,

Matt is taking a quick look through our latest spreadsheet when he gets in this morning, and will send it around before our meeting. We haven't done the last step in David's email yet, but I agree it could be useful and we should discuss as a group.

Erica

From: Berol, David

Sent: Monday, March 6, 2017 1:56:42 PM

To: Fleisig, Erica

Cc: Crk, Tanja; Chung, Angela; Szelag, Matthew; Guzzo, Lindsay; Szalay, Endre; Steiner-Riley, Cara; Fidis, Alexander; Buffo, Corey; Ford, Peter; Schroer, Lee

Subject: Re: WA Toxic Criteria and AWB Petitions

Thanks, Erica.

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

-- David Berol

U.S. EPA Office of General Counsel

202-564-6873

On Mar 5, 2017, at 11:44 PM, Fleisig, Erica <Fleisig.Erica@epa.gov> wrote:

Ex. 5 - Attorney Client

From: Berol, David

Sent: Friday, March 03, 2017 3:35 PM

To: Crk, Tanja <Crk.Tanja@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>

Cc: Schroer, Lee <schroer.lee@epa.gov>

Subject: RE: WA Toxic Criteria and AWB Petitions

Attorney-Client Privileged; Deliberative

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

David Berol

U.S. EPA Office of General Counsel

202-564-6873

berol.david@epa.gov

-----Original Appointment-----

From: Crk, Tanja

Sent: Thursday, February 23, 2017 9:59 AM

To: Crk, Tanja; Chung, Angela; Szelag, Matthew; Guzzo, Lindsay; Szalay, Endre; Steiner-Riley, Cara; Fleisig, Erica; Fidis, Alexander; Buffo, Corey; Berol, David; Ford, Peter

Cc: Schroer, Lee

Subject: WA Toxic Criteria and AWB Petitions

When: Tuesday, March 07, 2017 1:00 PM-2:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: HQ-Room-WJCW-6124-50pp

Ex. 5 - Deliberative Process

To: Beckwith, William[Beckwith.William@epa.gov]; Labiosa, Rochelle[labiosa.rochelle@epa.gov]; Macchio, Lisa[Macchio.Lisa@epa.gov]; Szelag, Matthew[Szelag.Matthew@epa.gov]; Tritt, Maja[Tritt.Maja@epa.gov]
From: Chung, Angela
Sent: Thur 5/26/2016 11:29:46 PM
Subject: FW: OWW's Weekly for 05/27/2016

FYI

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Dan Opalski [mailto:Opalski.Dan@epamail.epa.gov]
Sent: Thursday, May 26, 2016 3:27 PM
To: R10-ORA <R10-ORA@epa.gov>
Cc: R10 ECI OWW Editors <R10_ECI_OWW_Editors@epamail.epa.gov>; Barber, Anthony <Barber.Anthony@epa.gov>; Soderlund, Dianne <Soderlund.Dianne@epa.gov>; Werntz, James <Werntz.James@epa.gov>; Kenknight, Jeff <Kenknight.Jeff@epa.gov>; Edmondson, Lucy <Edmondson.Lucy@epa.gov>; Szerlog, Michael <Szerlog.Michael@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Castanon, Lisa <Castanon.Lisa@epa.gov>; Murchie, Peter <Murchie.Peter@epa.gov>; Fordham, Tami <Fordham.Tami@epa.gov>
Subject: OWW's Weekly for 05/27/2016

*** Internal Use Only ***

Subject: Weekly Report for the week of 05/27/2016 for OWW

To: r10-ora@epa.gov
CC: R10 ECI OWW Editors; Anthony Barber/R10/USEPA/US; Dianne Soderlund/R10/USEPA/US; James Werntz/R10/USEPA/US; Jeff Kenknight/R10/USEPA/US; Lucy Edmondson/R10/USEPA/US; Michael Szerlog/R10/USEPA/US; Cara Steiner-Riley/R10/USEPA/US; Lisa Castanon/R10/USEPA/US; Peter Murchie/R10/USEPA/US; Tami Fordham/R10/USEPA/US

OD & AD TRAVEL/SIGNIFICANT LEAVE:

Dan Opalski: IN Tue a.m.(teleworking)/Wed/Thu/Fri; OUT Mon (Holiday)/Tue p.m. (S/L)
Christine Psyk: IN Tue/Wed/Thu; OUT Mon (Holiday)/Fri (Compressed)
Bella Patheal-Centnera: IN Tue/Wed/Thu/Fri

HOT TOPICS

This Week:

NWEA Washington WQS Petition: On May 24, EPA HQ sent Northwest Environmental Advocates (NWEA) a response to their petition dated October 28, 2013 (and subsequent follow up letters from 2015 and 2016) requesting that EPA take specific steps to update water quality criteria for toxics to protect human health and aquatic life in Washington. EPA's response outlined the ongoing federal and state rule activity regarding Washington's human health criteria. Regarding aquatic life criteria, EPA did not grant or deny the petition but, instead, requested additional follow up information from NWEA. EPA also informed NWEA that it has encouraged Ecology (and Ecology has itself identified as a priority in its five year water quality strategy) to prioritize aquatic life criteria revisions consistent with the Agency's latest 304(a) recommendations and Region 10 Endangered Species Act consultations. Region 10 received a copy of the signed HQ response on May 24 and shared it with the WA Department of Ecology. POC: Matt Szelag, 3-5171.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

To: Szelag, Matthew[Szelag.Matthew@epa.gov]
From: Fleisig, Erica
Sent: Mon 3/6/2017 3:26:45 AM
Subject: FW: For Sara FW: WA Toxic Criteria and AWB Petitions

FYI, in case I forget to mention in one of our chats, Sara has a check-in with Mike this Thursday (she's filling in while Betsy S is out) so I suggested it might be a good time for her to raise the timing of this petition response (as well as the FL one which we probably need to do even sooner). I didn't realize the thing about getting a delegation memo...that will be fun!

From: Hisel-McCoy, Sara
Sent: Sunday, March 05, 2017 8:06 PM
To: Fleisig, Erica <Fleisig.Erica@epa.gov>
Cc: Buffo, Corey <Buffo.Corey@epa.gov>
Subject: Re: For Sara FW: WA Toxic Criteria and AWB Petitions

Thanks so much, Erica. Yes, I agree. We should totally include the Mike discussion on Thursday.

Thanks, Sara

Standards and Health Protection Division

On Mar 5, 2017, at 6:57 PM, Fleisig, Erica <Fleisig.Erica@epa.gov> wrote:

Sara,

Ex. 5 - Deliberative Process

-Erica

From: Berol, David
Sent: Friday, March 03, 2017 3:35 PM
To: Crk, Tanja <Crk.Tanja@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>
Cc: Schroer, Lee <schroer.lee@epa.gov>
Subject: RE: WA Toxic Criteria and AWB Petitions

Attorney-Client Privileged; Deliberative

All –

Ex. 5 - Attorney Client

2. Primary NWEA petition arguments relating to aquatic life.

Ex. 5 - Attorney Client

David Berol

U.S. EPA Office of General Counsel

202-564-6873

berol.david@epa.gov

-----Original Appointment-----

From: Crk, Tanja

Sent: Thursday, February 23, 2017 9:59 AM

To: Crk, Tanja; Chung, Angela; Szelag, Matthew; Guzzo, Lindsay; Szalay, Endre; Steiner-Riley, Cara; Fleisig, Erica; Fidis, Alexander; Buffo, Corey; Berol, David; Ford, Peter

Cc: Schroer, Lee

Subject: WA Toxic Criteria and AWB Petitions

When: Tuesday, March 07, 2017 1:00 PM-2:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: HQ-Room-WJCW-6124-50pp

Ex. 5 - Deliberative Process

To: Szelag, Matthew[Szelag.Matthew@epa.gov]
From: Fleisig, Erica
Sent: Tue 2/23/2016 4:11:29 PM
Subject: FW: a CMS is coming your way from Nina Bell Re: Petition for Rulemaking on Water Quality Criteria for Toxics in the State of Washington
[AX-15-001-3622 petition_response.pdf](#)

Here's what we sent apparently. Not much that we have to worry about conflicting with!

From: Washington, Evelyn
Sent: Tuesday, February 23, 2016 11:08 AM
To: Fleisig, Erica <Fleisig.Erica@epa.gov>; Fabiano, Claudia <Fabiano.Claudia@epa.gov>
Subject: RE: a CMS is coming your way from Nina Bell Re: Petition for Rulemaking on Water Quality Criteria for Toxics in the State of Washington

From: Fleisig, Erica
Sent: Monday, February 22, 2016 6:00 PM
To: Fabiano, Claudia <Fabiano.Claudia@epa.gov>; Washington, Evelyn <Washington.Evelyn@epa.gov>
Subject: RE: a CMS is coming your way from Nina Bell Re: Petition for Rulemaking on Water Quality Criteria for Toxics in the State of Washington

Evelyn, do you have a copy of the letter where we thanked NWEA for their "valuable input" on the matter? Neither I nor R10 is aware of that letter. Would be great if we could see it so we don't repeat ourselves this time.

Thanks!

Erica

From: Fabiano, Claudia
Sent: Monday, February 22, 2016 2:12 PM

To: Fleisig, Erica <Fleisig.Erica@epa.gov>

Subject: FW: a CMS is coming your way from Nina Bell Re: Petition for Rulemaking on Water Quality Criteria for Toxics in the State of Washington

From: Washington, Evelyn

Sent: Monday, February 22, 2016 1:23 PM

To: Buffo, Corey <Buffo.Corey@epa.gov>; Keating, Jim <Keating.Jim@epa.gov>; Fabiano, Claudia <Fabiano.Claudia@epa.gov>

Cc: Hisel-McCoy, Sara <Hisel-McCoy.Sara@epa.gov>; Barash, Shari <Barash.Shari@epa.gov>

Subject: a CMS is coming your way from Nina Bell Re: Petition for Rulemaking on Water Quality Criteria for Toxics in the State of Washington

This is her Second Follow Up to October 28, 2013 Northwest Environmental Advocates' Petition on this subject.

Northwest Environmental Advocates sent a petition to update the State of Washington's aquatic life criteria in its water quality standards on October 28, 2013. We did not respond.

On August 31, 2015 they sent a follow-up letter urging us to respond. We wrote thanking them for our "valuable input" on the matter but provided no info on when/if we intend to respond to the petition.

This new letter points out minor errors in the original petition and that EPA cannot rely upon the state to do what it should and how inexcusable it is that EPA has not taken any steps to bring WA's water quality standards for toxics up to date. And once again, they urge us to grant the petition.

The due date for the response is March 3 and it is a Direct Reply meaning the DD will sign it.

To: Szelag, Matthew[Szelag.Matthew@epa.gov]
From: Chung, Angela
Sent: Sat 9/12/2015 12:33:01 AM
Subject: RE: NWEA 2013 Petition on WA WQS -- follow up letter

Can you see what Erica thinks?

Ex. 5 - Deliberative Process

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Berol, David
Sent: Friday, September 04, 2015 11:06 AM
To: Chung, Angela; Szelag, Matthew; Fleisig, Erica; Fidis, Alexander; Fabiano, Claudia; Buffo, Corey; Hisel-McCoy, Sara
Cc: Schroer, Lee; Ford, Peter
Subject: FW: NWEA 2013 Petition on WA WQS -- follow up letter

Attorney-Client Privileged; Deliberative

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

David Berol

U.S. EPA Office of General Counsel

202-564-6873

berol.david@epa.gov

From: Chung, Angela

Sent: Friday, September 04, 2015 1:34 PM

To: Berol, David

Cc: Szelag, Matthew; Fleisig, Erica; Szalay, Endre

Subject: FW: NWEA 2013 Petition on WA WQS -- follow up letter

Hi David,

Welcome back! Not sure if this missive from Nina is in your in-box but I wanted to make sure you were aware since I saw your other email asking how we want to proceed with the WA litigation. I'll talk more with Matt and we'll get back to you.

Ex. 5 - Deliberative Process

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Nina Bell [<mailto:nbell@advocates-nwea.org>]

Sent: Monday, August 31, 2015 11:02 AM

To: McLerran, Dennis; Opalski, Dan; Chung, Angela; Behl, Betsy; Hisel-Mccoy, Sara; Southerland, Elizabeth; Kopocis, Ken

Subject: NWEA 2013 Petition on WA WQS -- follow up letter

Please see the attached letter regarding Northwest Environmental Advocates' October 28, 2013 Petition for Rulemaking on Water Quality Criteria for Toxics in the State of Washington sent to Administrator Gina McCarthy today.

Sincerely,

Nina

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212-0187

www.NorthwestEnvironmentalAdvocates.org

nbell@advocates-nwea.org

503/295-0490

To: Szelag, Matthew[Szelag.Matthew@epa.gov]
From: Fleisig, Erica
Sent: Tue 3/7/2017 4:21:08 PM
Subject: RE: WA Toxic Criteria and AWB Petitions

Ex. 5 - Deliberative Process

From: Fleisig, Erica
Sent: Tuesday, March 07, 2017 8:25 AM
To: Szelag, Matthew <Szelag.Matthew@epa.gov>
Subject: Re: WA Toxic Criteria and AWB Petitions

I realized I want to do some more number crunching with these, so I'll try to do that when I get in and send to you.

From: Fleisig, Erica
Sent: Monday, March 6, 2017 11:02:02 PM
To: Szelag, Matthew (Szelag.Matthew@epa.gov)
Subject: FW: WA Toxic Criteria and AWB Petitions

Ex. 5 - Deliberative Process

Also, turns out the sorting thing is pretty easy. You just highlight the column, go to the Data tab, and click "Filter." Then it gives you all the options, including filtering by color (to filter just the yellow cells where the HHC are more stringent).

-Erica

From: Berol, David

Sent: Monday, March 06, 2017 1:57 PM

To: Fleisig, Erica <Fleisig.Erica@epa.gov>

Cc: Crk, Tanja <Crk.Tanja@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>

Subject: Re: WA Toxic Criteria and AWB Petitions

Thanks, Erica.

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

-- David Berol

U.S. EPA Office of General Counsel

202-564-6873

On Mar 5, 2017, at 11:44 PM, Fleisig, Erica <Fleisig.Erica@epa.gov> wrote:

Ex. 5 - Attorney Client

-Erica

From: Berol, David

Sent: Friday, March 03, 2017 3:35 PM

To: Crk, Tanja <Crk.Tanja@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>

Cc: Schroer, Lee <schroer.lee@epa.gov>
Subject: RE: WA Toxic Criteria and AWB Petitions

Attorney-Client Privileged; Deliberative

All –

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

David Berol

U.S. EPA Office of General Counsel

202-564-6873

berol.david@epa.gov

-----Original Appointment-----

From: Crk, Tanja

Sent: Thursday, February 23, 2017 9:59 AM

To: Crk, Tanja; Chung, Angela; Szelag, Matthew; Guzzo, Lindsay; Szalay, Endre; Steiner-Riley, Cara; Fleisig, Erica; Fidis, Alexander; Buffo, Corey; Berol, David; Ford, Peter

Cc: Schroer, Lee

Subject: WA Toxic Criteria and AWB Petitions

When: Tuesday, March 07, 2017 1:00 PM-2:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: HQ-Room-WJCW-6124-50pp

Ex. 5 - Deliberative Process

To: Szelag, Matthew[Szelag.Matthew@epa.gov]
From: Fleisig, Erica
Sent: Tue 3/7/2017 4:02:02 AM
Subject: FW: WA Toxic Criteria and AWB Petitions
Draft WA comparison chart 3 6 17.xlsx

Ex. 5 - Deliberative Process

Also, turns out the sorting thing is pretty easy. You just highlight the column, go to the Data tab, and click "Filter." Then it gives you all the options, including filtering by color (to filter just the yellow cells where the HHC are more stringent).

-Erica

From: Berol, David
Sent: Monday, March 06, 2017 1:57 PM
To: Fleisig, Erica <Fleisig.Erica@epa.gov>
Cc: Crk, Tanja <Crk.Tanja@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>
Subject: Re: WA Toxic Criteria and AWB Petitions

Thanks, Erica.

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

-- David Berol

U.S. EPA Office of General Counsel

202-564-6873

On Mar 5, 2017, at 11:44 PM, Fleisig, Erica <Fleisig.Erica@epa.gov> wrote:

Ex. 5 - Attorney Client

-Erica

From: Berol, David
Sent: Friday, March 03, 2017 3:35 PM
To: Crk, Tanja <Crk.Tanja@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>
Cc: Schroer, Lee <schroer.lee@epa.gov>
Subject: RE: WA Toxic Criteria and AWB Petitions

Attorney-Client Privileged; Deliberative

All –

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

David Berol

U.S. EPA Office of General Counsel

202-564-6873

berol.david@epa.gov

-----Original Appointment-----

From: Crk, Tanja

Sent: Thursday, February 23, 2017 9:59 AM

To: Crk, Tanja; Chung, Angela; Szelag, Matthew; Guzzo, Lindsay; Szalay, Endre; Steiner-Riley, Cara; Fleisig, Erica; Fidis, Alexander; Buffo, Corey; Berol, David; Ford, Peter

Cc: Schroer, Lee

Subject: WA Toxic Criteria and AWB Petitions

When: Tuesday, March 07, 2017 1:00 PM-2:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: HQ-Room-WJCW-6124-50pp

Ex. 5 - Deliberative Process

To: Chung, Angela[Chung.Angela@epa.gov]; Szelag, Matthew[Szelag.Matthew@epa.gov]
From: Guzzo, Lindsay
Sent: Mon 3/6/2017 6:53:25 PM
Subject: RE: WA Toxic Criteria and AWB Petitions

Ex. 5 - Deliberative Process

NOAA:

Adverse effects of dissolved copper and zinc on listed salmon occur at very low levels (values ranging from 0.18 to 2.1 µg/L in freshwater for copper (Hecht et. al, 2007) and at 5.6 µg/L in freshwater for zinc (Sprague 1968)). Adverse effects of copper include interference with fish sensory systems and important behaviors that underlie predator avoidance, juvenile growth and migratory success. These effects occur at pollutant levels that are 6 to 77 times lower than the proposed benchmark level for total copper (14 µg/L). In addition, the proposed benchmark level for zinc in this permit (200 and 255 µg/L total Zn) is higher than the level proposed for the 2007 Industrial permit (115 µg/L total Zn). We do not believe these proposed benchmark levels avoid more than minor detrimental effects to listed salmon and steelhead. Similarly, adverse effects of zinc include altered behavior, blood and serum chemistry, impaired reproduction, and reduced growth. These effects occur at pollutant levels that are 35 and 45 times lower than the proposed total zinc benchmark levels (200 µg/L for Western Washington and 255 µg/L for Eastern Washington).

Ecology's response:

The benchmarks used in this permit are derived using existing Washington State Surface Water Quality Standards. Ecology understands the adverse affects of copper on salmonids at very low levels. However, since the benchmarks are measured "end-of-pipe" (100% stormwater runoff) rather than in the actual receiving waters where salmon are present, believe that copper and zinc may be discharged at the benchmark levels without causing excursions of the water quality standards 90% of the time.

The other comments (with responses) received at the same time from NOAA:

NOAA:

Ecology determined that the proposed benchmarks and action levels should be considered based on a dilution factor of 5 and a 10 percent risk for exceeding the applicable water quality standard for each metal. While this may be a viable approach for setting benchmark levels across a broad range of facility types and receiving waters, it is not an approach that provides adequate protection for listed salmon. We cannot accurately assume that a dilution factor of 5 will always be provided where listed salmon are

present.

Ecology:

The use of a dilution factor in deriving the benchmark is not considered the authorization of a mixing zone, but Ecology has determined that a modest dilution factor 5 is consistent with WAC 173-201A-400. Based upon Ecology's best professional judgment and experience under the previous permit cycle, Ecology has determined that in order to meet the proposed copper and zinc benchmarks, permittees will be required to fully apply AKART, and many will be required to install active stormwater treatment systems.

NOAA:

With the proposed benchmark level for zinc set at a level that does not provide protection necessary for salmon growth and survival, and with copper being identified as a widespread pollutant in industrial facilities, we do not believe using zinc as a surrogate of copper and limiting copper monitoring to 5 sectors will adequately protect listed salmon.

Ecology:

Ecology has decided to apply copper monitoring as a core sampling parameter for all facilities.

Lindsay Guzzo

Lindsay Guzzo

US EPA

Office of Water and Watersheds

Water Quality Standards Unit (OWW-191)

1200 Sixth Avenue, Suite 900

Seattle, WA 98101

phone: 206-553-0268

fax: 206-553-1280

guzzo.lindsay@epa.gov

From: Chung, Angela
Sent: Monday, March 06, 2017 10:06 AM
To: Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>
Subject: RE: WA Toxic Criteria and AWB Petitions

Hi Lindsay,

Ex. 5 - Deliberative Process

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Fleisig, Erica
Sent: Sunday, March 05, 2017 8:45 PM
To: Berol, David <Berol.David@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>
Cc: Schroer, Lee <schroer.lee@epa.gov>
Subject: RE: WA Toxic Criteria and AWB Petitions

Ex. 5 - Attorney Client

-Erica

From: Berol, David

Sent: Friday, March 03, 2017 3:35 PM

To: Crk, Tanja <Crk.Tanja@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>

Cc: Schroer, Lee <schroer.lee@epa.gov>

Subject: RE: WA Toxic Criteria and AWB Petitions

Attorney-Client Privileged; Deliberative

All –

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

David Berol

U.S. EPA Office of General Counsel

202-564-6873

berol.david@epa.gov

-----Original Appointment-----

From: Crk, Tanja

Sent: Thursday, February 23, 2017 9:59 AM

To: Crk, Tanja; Chung, Angela; Szelag, Matthew; Guzzo, Lindsay; Szalay, Endre; Steiner-Riley, Cara; Fleisig, Erica; Fidis, Alexander; Buffo, Corey; Berol, David; Ford, Peter

Cc: Schroer, Lee

Subject: WA Toxic Criteria and AWB Petitions

When: Tuesday, March 07, 2017 1:00 PM-2:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: HQ-Room-WJCW-6124-50pp

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

To: Guzzo, Lindsay[Guzzo.Lindsay@epa.gov]; Szelag, Matthew[Szelag.Matthew@epa.gov]
From: Chung, Angela
Sent: Mon 3/6/2017 6:05:54 PM
Subject: RE: WA Toxic Criteria and AWB Petitions

Hi Lindsay,

Ex. 5 - Deliberative Process

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Fleisig, Erica
Sent: Sunday, March 05, 2017 8:45 PM
To: Berol, David <Berol.David@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>
Cc: Schroer, Lee <schroer.lee@epa.gov>
Subject: RE: WA Toxic Criteria and AWB Petitions

Ex. 5 - Attorney Client

-Erica

From: Berol, David
Sent: Friday, March 03, 2017 3:35 PM

To: Crk, Tanja <Crk.Tanja@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>

Cc: Schroer, Lee <schroer.lee@epa.gov>

Subject: RE: WA Toxic Criteria and AWB Petitions

Attorney-Client Privileged; Deliberative

All –

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

David Berol

U.S. EPA Office of General Counsel

202-564-6873

berol.david@epa.gov

-----Original Appointment-----

From: Crk, Tanja

Sent: Thursday, February 23, 2017 9:59 AM

To: Crk, Tanja; Chung, Angela; Szelag, Matthew; Guzzo, Lindsay; Szalay, Endre; Steiner-Riley, Cara; Fleisig, Erica; Fidis, Alexander; Buffo, Corey; Berol, David; Ford, Peter

Cc: Schroer, Lee

Subject: WA Toxic Criteria and AWB Petitions

When: Tuesday, March 07, 2017 1:00 PM-2:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: HQ-Room-WJCW-6124-50pp

s
o

Ex. 5 - Deliberative Process

on

To: Szelag, Matthew[Szelag.Matthew@epa.gov]
From: Fleisig, Erica
Sent: Thur 3/2/2017 2:10:27 AM
Subject: FW: New CWA Unreasonable Delay Lawsuit to Respond to Administrative Petition Regarding Washington WQS

Ex. 5 - Deliberative Process

From: Schroer, Lee
Sent: Wednesday, March 01, 2017 5:41 PM
To: Shapiro, Mike <Shapiro.Mike@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>; Southerland, Elizabeth <Southerland.Elizabeth@epa.gov>; Lape, Jeff <lape.jeff@epa.gov>; Hisel-McCoy, Sara <Hisel-McCoy.Sara@epa.gov>; Washington, Evelyn <Washington.Evelyn@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Keating, Jim <Keating.Jim@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Behl, Betsy <Behl.Betsy@epa.gov>; Gallagher, Kathryn <Gallagher.Kathryn@epa.gov>; Strong, Jamie <Strong.Jamie@epa.gov>; Opalski, Dan <Opalski.Dan@epa.gov>; Psyk, Christine <Psyk.Christine@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>
Cc: Stern, Allyn <Stern.Allyn@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Berol, David <Berol.David@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>; Parikh, Pooja <Parikh.Pooja@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Curtin, James <curtin.james@epa.gov>; Sweeney, Stephen <Sweeney.Stephen@epa.gov>; Wade, Alexis <Wade.Alexis@epa.gov>; Zomer, Jessica <Zomer.Jessica@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>
Subject: New CWA Unreasonable Delay Lawsuit to Respond to Administrative Petition Regarding Washington WQS

On February 21, 2017, the Northwest Environmental Advocates (“NWEA”) filed an unreasonable delay suit against the Agency in the Western District of Washington. *Northwest Environmental Advocates v. EPA*, No. 2:17-cv-00263 (W.D.Wash.) The unreasonable delay alleged is with respect to a petition that NWEA filed on October 28, 2013, and subsequently

supplemented on August 31, 2015, and February 9, 2016.

NWEA's petition urged EPA to:

1. Make an Administrator's determination under CWA § 303(c)(4)(B) that Washington's water quality toxics criteria *for human health* needed to be updated.
2. Determine that Washington had failed to adopt certain water quality toxics criteria for *the protection of aquatic life*, required pursuant to CWA § 303(c)(2)(B).
3. Promulgate updated water quality toxics criteria for Washington, for both human health and the protection of aquatic life, by rule.

On March 4, 2016, EPA wrote to NWEA, pointing out that it was in the midst of a rulemaking process to potentially promulgate Washington water quality toxics criteria for human health if Washington itself did not act first. With respect to aquatic life, EPA noted that it expected Washington to turn to aquatic life criteria after the matter of human health criteria had been addressed. In that letter, EPA requested NWEA to provide further factual information, intended to help the Agency evaluate whether there was a legal obligation or other substantive need for EPA to promulgate aquatic life criteria for Washington State.

In November, 2016, the Administrator signed a notice of final rulemaking promulgating 144 human health criteria for Washington waters and EPA took action to approve in part and disapprove in part Washington's August 1, 2016 submission of revised human health criteria (45 approved, 143 disapproved). EPA's final rule did not include criteria for three pollutants (thallium, dioxin, and arsenic) due to scientific uncertainties regarding the underlying input variables for those pollutants. (Note that in its review of Washington's criteria submittal, EPA disapproved the State's arsenic criteria, but took no action on the State's criteria for thallium and dioxin).

On February 21, 2016, NWEA:

1. Responded to EPA's March 4, 2016 request, complaining that EPA's questions were "largely rhetorical" and that answering EPA's questions represented "work that Congress intended to be done by EPA, the states and the [wildlife] Services," rather than by NWEA.
2. Filed this unreasonable delay claim against EPA.

NWEA cites three substantive problems with the status quo, in which EPA has not yet delivered its final response to NWEA's 2013 petition:

1. EPA did not promulgate human health criteria for the full suite of pollutants that NWEA requested. NWEA notes the absence of criteria for arsenic, dioxin, and thallium.
2. Washington has not yet adopted revised aquatic life criteria.
3. EPA's promulgation of human health criteria did not fully moot out NWEA's request for aquatic life criteria, because in some cases, the EPA-recommended aquatic life criterion for a particular pollutant is more stringent than the EPA-recommended human health criterion.

The complaint asks the court to order EPA to respond the NWEA's petition within 30 days of the date of the court's order and award plaintiff attorney fees under EAJA.

David Berol of OGC and Alex Fidis of Region 10's ORC are assigned to this matter. If you have any questions, they can be reached at (202) 564-6873 and (206) 553-4710, respectively.

Lee C. Schroer

Office of General Counsel (Mail Code 2355A)

Room 7518C William Jefferson Clinton Bldg North

Environmental Protection Agency

1200 Pennsylvania Avenue, N.W.

Washington, D.C. 20460

Tel: 202-564-5476

To: Szelag, Matthew[Szelag.Matthew@epa.gov]
From: Fleisig, Erica
Sent: Wed 2/22/2017 4:37:52 PM
Subject: FW: NWEA letter re WA toxic criteria
NWEA response to EPA May 4 2016 letter.pdf

I have thoughts about this. Hope you're on IM later today ☺

From: Hisel-Mccoy, Sara
Sent: Wednesday, February 22, 2017 11:26 AM
To: Southerland, Elizabeth <Southerland.Elizabeth@epa.gov>
Cc: Buffo, Corey <Buffo.Corey@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>
Subject: FW: NWEA letter re WA toxic criteria

FYI

From: Nina Bell [<mailto:nbell@advocates-nwea.org>]
Sent: Tuesday, February 21, 2017 3:07 PM
To: Hisel-Mccoy, Sara <Hisel-McCoy.Sara@epa.gov>
Cc: Chung, Angela <Chung.Angela@epa.gov>; Psyk, Christine <Psyk.Christine@epa.gov>
Subject: NWEA letter re WA toxic criteria

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212

nbell@advocates-nwea.org

NorthwestEnvironmentalAdvocates.org

503/295-0490

To: Szelag, Matthew[Szelag.Matthew@epa.gov]
From: Chung, Angela
Sent: Wed 5/25/2016 8:46:41 PM
Subject: Re: NWEA petition response

Thanks Matt. I'll also probably add that we just got a copy on Tuesday and shared with Ecology.

Sent from my iPhone

On May 25, 2016, at 1:41 PM, Szelag, Matthew <Szelag.Matthew@epa.gov> wrote:

Here's a brief summary:

On May 4, EPA sent Northwest Environmental Advocates (NWEA) a response to their petition dated October 28, 2013 (and subsequent follow up letters from 2015 and 2016) requesting that EPA take specific steps to update water quality criteria for toxics to protect human health and aquatic life in Washington. EPA's response outlined the ongoing federal and state rule activity regarding Washington's human health criteria. Regarding aquatic life criteria, EPA did not grant or deny the petition, instead asking for additional follow up information from NWEA. EPA also encouraged Ecology to prioritize aquatic life criteria revisions consistent with the Agency's latest 304(a) recommendations and Region 10 Endangered Species Act consultations.

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

1200 6th Avenue, Suite 900, OWW-191 | Seattle, WA 98101

P: (206) 553.5171 | szelag.matthew@epa.gov

From: Chung, Angela
Sent: Wednesday, May 25, 2016 11:35 AM
To: Szelag, Matthew <Szelag.Matthew@epa.gov>
Subject: RE: NWEA petition response

This was signed on May 4 and we are just getting it now!?! Can you write a short blurb

for the Thursday hot issues (I need it by tomorrow morning)? Thanks.

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Szelag, Matthew
Sent: Tuesday, May 24, 2016 9:11 AM
To: mgil461@ECY.WA.GOV
Cc: Chung, Angela <Chung.Angela@epa.gov>
Subject: NWEA petition response

Hi Melissa,

Here's a signed copy of EPA's response to NWEA's petition request for toxics criteria in Washington. Sorry for the delay.

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

1200 6th Avenue, Suite 900, OWW-191 | Seattle, WA 98101

P: (206) 553.5171 | szelag.matthew@epa.gov

To: Chung, Angela[Chung.Angela@epa.gov]; Fleisig, Erica[Fleisig.Erica@epa.gov]
From: Szelag, Matthew
Sent: Thur 1/21/2016 3:51:42 PM
Subject: RE: draft NWEA and SEACC petition responses
AK HHC petition response SEACC AC edits mjs.docx
NWEA petition WA toxics AC mjs.docx

.....
>>>>>>>

Thanks Angela. I've cleaned up both letters and left in a comment or two for Erica's review and input.

Thanks!

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

1200 6th Avenue, Suite 900, OWW-191 | Seattle, WA 98101

P: (206) 553.5171 | szelag.matthew@epa.gov

From: Chung, Angela
Sent: Wednesday, January 20, 2016 11:25 PM
To: Szelag, Matthew ; Fleisig, Erica
Subject: RE: draft NWEA petition response

Hola again,

Here are my comments on this petition response.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Szelag, Matthew
Sent: Friday, January 15, 2016 4:19 PM
To: Fleisig, Erica ; Chung, Angela
Subject: draft NWEA petition response

Hi Erica and Angela,

Attached is a draft response to NWEA's petition regarding WA's toxics criteria. I kept it brief as

we had discussed. Please let me know if you have edits/comments. We will also need to decide who will sign the letter. I've also attached NWEA's request and follow up letter.

I plan to work on the Alaska petition responses next week, hopefully. Thanks,

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

1200 6th Avenue, Suite 900, OWW-191 | Seattle, WA 98101

P: (206) 553.5171 | szelag.matthew@epa.gov

To: Chung, Angela[Chung.Angela@epa.gov]; Labiosa, Rochelle[labiosa.rochelle@epa.gov]; Beckwith, William[Beckwith.William@epa.gov]; Tritt, Maja[Tritt.Maja@epa.gov]; Macchio, Lisa[Macchio.Lisa@epa.gov]; Szelag, Matthew[Szelag.Matthew@epa.gov]
From: Guzzo, Lindsay
Sent: Thur 4/20/2017 11:12:19 PM
Subject: FW: Washington Unreasonable Delay Lawsuits
NWEA petition denial WA toxics 4 18 2017 redline.docx

Here is the draft petition denial letter we talked about at today's unit meeting. Please let me know if you have any questions. Thanks!

Lindsay Guzzo

Lindsay Guzzo

US EPA

Office of Water and Watersheds

Water Quality Standards Unit (OWW-191)

1200 Sixth Avenue, Suite 900

Seattle, WA 98101

phone: 206-553-0268

fax: 206-553-1280

guzzo.lindsay@epa.gov

From: Chung, Angela
Sent: Tuesday, April 18, 2017 10:00 AM
To: Psyk, Christine <Psyk.Christine@epa.gov>

Cc: Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>
Subject: FW: Florida and Washington Unreasonable Delay Lawsuits
Importance: High

Hi Christine,

FYI, the NWEA petition response/denial is moving along.

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Fleisig, Erica
Sent: Tuesday, April 18, 2017 9:52 AM
To: Hansel, Joel <Hansel.Joel@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Godfrey, Annie <Godfrey.Annie@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Berol, David <Berol.David@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Baschon, Carol <Baschon.Carol@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Ludwig-Monty, Sarah <ludwig-monty.sarah@epa.gov>
Subject: RE: Florida and Washington Unreasonable Delay Lawsuits
Importance: High

Here's the revised WA one in redline. Also minor edits,

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Erica Fleisig

Physical Scientist, Team Leader

Regional Water Quality Standards Branch, Office of Science and Technology

U.S. Environmental Protection Agency

1200 Pennsylvania Ave, NW (4305T)

Washington, DC 20460

(202) 566-1057 (work)

(202) 566-0409 (fax)

From: Hansel, Joel

Sent: Tuesday, April 18, 2017 12:38 PM

To: Fleisig, Erica <Fleisig.Erica@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Godfrey, Annie <Godfrey.Annie@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Berol, David <Berol.David@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Baschon, Carol <Baschon.Carol@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Ludwig-Monty, Sarah <ludwig-monty.sarah@epa.gov>

Subject: RE: Florida and Washington Unreasonable Delay Lawsuits

I have no objections.

Joel

From: Fleisig, Erica

Sent: Tuesday, April 18, 2017 12:35 PM

To: Hansel, Joel <Hansel.Joel@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Godfrey, Annie <Godfrey.Annie@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Berol, David <Berol.David@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Baschon, Carol <Baschon.Carol@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Ludwig-Monty, Sarah <ludwig-monty.sarah@epa.gov>

Subject: FW: Florida and Washington Unreasonable Delay Lawsuits

FYI – Benita is asking for drafts of the WA and FL petition denials today to give to Sarah Greenwalt (see below). Attached are Betsy's very minor edits to the FL one (I assume R4 and OGC folks won't object to these and I'll clean up and send). I am working on the WA petition denial edits now and will send those asap (also mostly non-substantive).

Erica Fleisig

Physical Scientist, Team Leader

Regional Water Quality Standards Branch, Office of Science and Technology

U.S. Environmental Protection Agency

1200 Pennsylvania Ave, NW (4305T)

Washington, DC 20460

(202) 566-1057 (work)

(202) 566-0409 (fax)

From: Southerland, Elizabeth

Sent: Tuesday, April 18, 2017 12:21 PM

To: Fleisig, Erica <Fleisig.Erica@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>

Subject: Fwd: Florida and Washington Unreasonable Delay Lawsuits

Sent from my iPhone

Begin forwarded message:

From: "Best-Wong, Benita" <Best-Wong.Benita@epa.gov>

Date: April 18, 2017 at 11:46:54 AM EDT

To: "Southerland, Elizabeth" <Southerland.Elizabeth@epa.gov>, "Hisel-Mccoy, Sara" <Hisel-McCoy.Sara@epa.gov>

Subject: FW: Florida and Washington Unreasonable Delay Lawsuits

Betsy/Sara – Do you have a draft response to the petitions that I can share with Sarah? I

Ex. 5 - Deliberative Process

Regards,

Benita

Benita Best-Wong

Acting Deputy Assistant Administrator

Office of Water

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

202-566-1159

From: Greenwalt, Sarah

Sent: Tuesday, April 18, 2017 11:44 AM

To: Best-Wong, Benita <Best-Wong.Benita@epa.gov>

Cc: Dravis, Samantha <dravis.samantha@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>

Subject: RE: Florida and Washington Unreasonable Delay Lawsuits

Benita,

Thanks again for the material. David and others have been working with DOJ on deadlines, so to the extent the decision needed from me was to agree to respond to the petitions by mid-May, I see no problem with that.

If the decision needed from me is whether to deny, then let me know. I understand you have draft denials (or at least a draft of the WA denial) prepared? Would you please send me those drafts?

Thanks!

Sarah A. Greenwalt

Senior Advisor to the Administrator

for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency

Work: 202-564-1722|Cell: 202-816-1388

Greenwalt.Sarah@epa.gov

From: Best-Wong, Benita

Sent: Friday, April 14, 2017 8:07 AM

To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>

Cc: Dravis, Samantha <dravis.samantha@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>

Subject: Florida and Washington Unreasonable Delay Lawsuits

Sarah,

Ex. 5 - Deliberative Process

We'd be happy to answer any questions you have on the litigation/petitions or schedule a briefing for you to provide more details.

Regards,

Benita

Benita Best-Wong

Acting Deputy Assistant Administrator

Office of Water

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

202-566-1159

To: Szelag, Matthew[Szelag.Matthew@epa.gov]
From: Fleisig, Erica
Sent: Tue 2/21/2017 8:10:01 PM
Subject: FW: NWEA letter re WA toxic criteria
NWEA response to EPA May 4 2016 letter.pdf

Well there it is!

From: Chung, Angela
Sent: Tuesday, February 21, 2017 3:09 PM
To: Crk, Tanja <Crk.Tanja@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>
Subject: FW: NWEA letter re WA toxic criteria

FYI

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Nina Bell [mailto:nbell@advocates-nwea.org]
Sent: Tuesday, February 21, 2017 12:07 PM
To: Hisel-McCoy, Sara <Hisel-McCoy.Sara@epa.gov>
Cc: Chung, Angela <Chung.Angela@epa.gov>; Psyk, Christine <Psyk.Christine@epa.gov>
Subject: NWEA letter re WA toxic criteria

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212

nbell@advocates-nwea.org

NorthwestEnvironmentalAdvocates.org

503/295-0490

To: Szelag, Matthew[Szelag.Matthew@epa.gov]
From: Fleisig, Erica
Sent: Tue 2/21/2017 8:04:23 PM
Subject: FW: WA toxic criteria petition
NWEA v EPA Complaint Feb 21 2017.pdf
ATT00001.htm

From: Fleisig, Erica
Sent: Tuesday, February 21, 2017 2:37 PM
To: Schroer, Lee <schroer.lee@epa.gov>; Berol, David <Berol.David@epa.gov>; Buffo, Corey <buffo.corey@epa.gov>; Hisel-Mccoy, Sara <Hisel-McCoy.Sara@epa.gov>; Keating, Jim <keating.jim@epa.gov>
Cc: Crk, Tanja <Crk.Tanja@epa.gov>
Subject: FW: WA toxic criteria petition

David, I think you had worked with us on this one originally (last we had done was respond to NWEA with questions and answer that her human health criteria portion of the original petition was now moot). More to discuss soon (Lee/David, please let us know if David isn't the OGC lead on this).

-Erica

From: Chung, Angela
Sent: Tuesday, February 21, 2017 2:31 PM
To: Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>
Subject: Fwd: WA toxic criteria petition

FYI

Sent from my iPhone

Begin forwarded message:

From: "Nina Bell" <nbell@advocates-nwea.org>
Date: February 21, 2017 at 11:23:02 AM PST
To: <Chung.angela@Epamail.epa.gov>
Subject: WA toxic criteria petition
Reply-To: <nbell@advocates-nwea.org>

We filed the attached case today.

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212

nbell@advocates-nwea.org

NorthwestEnvironmentalAdvocates.org

503/295-0490

To: Szelag, Matthew[Szelag.Matthew@epa.gov]
From: Fleisig, Erica
Sent: Mon 8/31/2015 6:24:42 PM
Subject: FW: NWEA 2013 Petition on WA WQS -- follow up letter
[Petition follow up letter Aug 31 2015.pdf](#)
[ATT00001.htm](#)

.....
>>>>>

We never do enough...

From: Hisel-McCoy, Sara
Sent: Monday, August 31, 2015 2:16 PM
To: Buffo, Corey; Fleisig, Erica; Fabiano, Claudia
Subject: Fwd: NWEA 2013 Petition on WA WQS -- follow up letter

Sara Hisel-McCoy

Standards and Health Protection Division

202 566-1649

Begin forwarded message:

From: Nina Bell <nbell@advocates-nwea.org>
Date: August 31, 2015 at 2:02:06 PM EDT
To: "McLerran, Dennis" <mclerran.dennis@epa.gov>, "Opalski, Dan" <Opalski.Dan@epa.gov>, "Chung, Angela" <Chung.Angela@epa.gov>, "Behl, Betsy" <Behl.Betsy@epa.gov>, "Hisel-McCoy, Sara" <Hisel-McCoy.Sara@epa.gov>, "Southerland, Elizabeth" <Southerland.Elizabeth@epa.gov>, "Kopocis, Ken" <Kopocis.Ken@epa.gov>
Subject: NWEA 2013 Petition on WA WQS -- follow up letter
Reply-To: "nbell@advocates-nwea.org" <nbell@advocates-nwea.org>

Please see the attached letter regarding Northwest Environmental Advocates' October 28, 2013 Petition for Rulemaking on Water Quality Criteria for Toxics in the State of Washington sent to Administrator Gina McCarthy today.

Sincerely,

Nina

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212-0187

www.NorthwestEnvironmentalAdvocates.org

nbell@advocates-nwea.org

503/295-0490

To: Szelag, Matthew[Szelag.Matthew@epa.gov]; Fleisig, Erica[Fleisig.Erica@epa.gov]
From: Chung, Angela
Sent: Mon 8/31/2015 7:28:21 PM
Subject: FW: NWEA 2013 Petition on WA WQS -- follow up letter
Petition follow up letter Aug 31 2015.pdf

.....
>>>>>
FYI

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Nina Bell [mailto:nbell@advocates-nwea.org]
Sent: Monday, August 31, 2015 11:02 AM
To: McLerran, Dennis; Opalski, Dan; Chung, Angela; Behl, Betsy; Hisel-Mccoy, Sara;
Southerland, Elizabeth; Kopocis, Ken
Subject: NWEA 2013 Petition on WA WQS -- follow up letter

Please see the attached letter regarding Northwest Environmental Advocates' October 28, 2013 Petition for Rulemaking on Water Quality Criteria for Toxics in the State of Washington sent to Administrator Gina McCarthy today.

Sincerely,

Nina

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212-0187

www.NorthwestEnvironmentalAdvocates.org

nbell@advocates-nwea.org

503/295-0490

To: Chung, Angela[Chung.Angela@epa.gov]; Szelag, Matthew[Szelag.Matthew@epa.gov]
From: Opalski, Dan
Sent: Thur 2/11/2016 8:29:14 PM
Subject: Fwd: follow up letter to NWEA petition re WA WQS
[Second follow up letter.pdf](#)
[ATT00001.htm](#)
[o'neill etal 05 pops in salmon abstract-1.pdf](#)
[ATT00002.htm](#)
[Oneill Marine Distribution, Life History Traits.pdf](#)
[ATT00003.htm](#)
[Oneill Regional patterns of persistent organic pollutants.pdf](#)
[ATT00004.htm](#)
[West Spatial Extent of Pacific Herring 2008.pdf](#)
[ATT00005.htm](#)
[Collier Toxic Chemical Contaminants and Puget Sound.pdf](#)
[ATT00006.htm](#)
[Ford et al 2016 Orca diet.pdf](#)
[ATT00007.htm](#)
[EPA et al Puget Sound Action Plan May 3 2012.pdf](#)
[ATT00008.htm](#)

;;;

Sent from my iPhone

Begin forwarded message:

From: "McLerran, Dennis" <mclerran.dennis@epa.gov>
Date: February 11, 2016 at 12:07:35 PM PST
To: "Opalski, Dan" <Opalski.Dan@epa.gov>, "Psyk, Christine" <Psyk.Christine@epa.gov>
Subject: Fwd: follow up letter to NWEA petition re WA WQS

FYI

Sent from my EPA iPhone

Begin forwarded message:

From: "Nina Bell" <nbell@advocates-nwea.org>
To: "McLerran, Dennis" <mclerran.dennis@epa.gov>, "Opalski, Dan" <Opalski.Dan@epa.gov>
Subject: follow up letter to NWEA petition re WA WQS

Nina

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212-0187

www.NorthwestEnvironmentalAdvocates.org

nbell@advocates-nwea.org

503/295-0490

To: Crk, Tanja[Crk.Tanja@epa.gov]; Fleisig, Erica[Fleisig.Erica@epa.gov]; Buffo, Corey[Buffo.Corey@epa.gov]; Szelag, Matthew[Szelag.Matthew@epa.gov]; Guzzo, Lindsay[Guzzo.Lindsay@epa.gov]; Fidis, Alexander[Fidis.Alexander@epa.gov]; Szalay, Endre[Szalay.Endre@epa.gov]
From: Chung, Angela
Sent: Tue 2/21/2017 8:08:50 PM
Subject: FW: NWEA letter re WA toxic criteria
NWEA response to EPA May 4 2016 letter.pdf

.....
>>>>
FYI

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Nina Bell [mailto:nbell@advocates-nwea.org]
Sent: Tuesday, February 21, 2017 12:07 PM
To: Hisel-Mccoy, Sara
Cc: Chung, Angela ; Psyk, Christine
Subject: NWEA letter re WA toxic criteria

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212

nbell@advocates-nwea.org

NorthwestEnvironmentalAdvocates.org

503/295-0490

To: Chung, Angela[Chung.Angela@epa.gov]; Szelag, Matthew[Szelag.Matthew@epa.gov]; Fleisig, Erica[Fleisig.Erica@epa.gov]; Fidis, Alexander[Fidis.Alexander@epa.gov]; Fabiano, Claudia[Fabiano.Claudia@epa.gov]; Buffo, Corey[Buffo.Corey@epa.gov]; Hisel-McCoy, Sara[Hisel-McCoy.Sara@epa.gov]
Cc: Schroer, Lee[schroer.lee@epa.gov]; Ford, Peter[Ford.Peter@epa.gov]
From: Berol, David
Sent: Fri 9/4/2015 6:06:14 PM
Subject: FW: NWEA 2013 Petition on WA WQS -- follow up letter
Petition follow up letter Aug 31 2015.pdf

.....
"-----"
Attorney-Client Privileged; Deliberative

Ex. 5 - Attorney Client

David Berol

U.S. EPA Office of General Counsel

202-564-6873

berol.david@epa.gov

From: Chung, Angela
Sent: Friday, September 04, 2015 1:34 PM
To: Berol, David
Cc: Szelag, Matthew; Fleisig, Erica; Szalay, Endre

Subject: FW: NWEA 2013 Petition on WA WQS -- follow up letter

Hi David,

Welcome back! Not sure if this missive from Nina is in your in-box but I wanted to make sure you were aware since I saw your other email asking how we want to proceed with the WA litigation. I'll talk more with Matt and we'll get back to you.

Ex. 5 - Attorney Client

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Nina Bell [<mailto:nbell@advocates-nwea.org>]
Sent: Monday, August 31, 2015 11:02 AM
To: McLerran, Dennis; Opalski, Dan; Chung, Angela; Behl, Betsy; Hisel-Mccoy, Sara; Southerland, Elizabeth; Kopocis, Ken
Subject: NWEA 2013 Petition on WA WQS -- follow up letter

Please see the attached letter regarding Northwest Environmental Advocates' October 28, 2013 Petition for Rulemaking on Water Quality Criteria for Toxics in the State of Washington sent to Administrator Gina McCarthy today.

Sincerely,

Nina

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212-0187

www.NorthwestEnvironmentalAdvocates.org

nbell@advocates-nwea.org

503/295-0490

To: Shapiro, Mike[Shapiro.Mike@epa.gov]; Best-Wong, Benita[Best-Wong.Benita@epa.gov]; Campbell, Ann[Campbell.Ann@epa.gov]; Southerland, Elizabeth[Southerland.Elizabeth@epa.gov]; Lape, Jeff[lape.jeff@epa.gov]; Hisel-McCoy, Sara[Hisel-McCoy.Sara@epa.gov]; Washington, Evelyn[Washington.Evelyn@epa.gov]; Buffo, Corey[Buffo.Corey@epa.gov]; Keating, Jim[Keating.Jim@epa.gov]; Crk, Tanja[Crk.Tanja@epa.gov]; Fleisig, Erica[Fleisig.Erica@epa.gov]; Behl, Betsy[Behl.Betsy@epa.gov]; Gallagher, Kathryn[Gallagher.Kathryn@epa.gov]; Strong, Jamie[Strong.Jamie@epa.gov]; Opalski, Dan[Opalski.Dan@epa.gov]; Psyk, Christine[Psyk.Christine@epa.gov]; Chung, Angela[Chung.Angela@epa.gov]; Szelag, Matthew[Szelag.Matthew@epa.gov]; Guzzo, Lindsay[Guzzo.Lindsay@epa.gov]
Cc: Stern, Allyn[Stern.Alyn@epa.gov]; Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]; Fidis, Alexander[Fidis.Alexander@epa.gov]; Szelag, Matthew[Szelag.Matthew@epa.gov]; Neugeboren, Steven[Neugeboren.Steven@epa.gov]; Berol, David[Berol.David@epa.gov]; Ford, Peter[Ford.Peter@epa.gov]; Parikh, Pooja[Parikh.Pooja@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Curtin, James[curtin.james@epa.gov]; Sweeney, Stephen[Sweeney.Stephen@epa.gov]; Wade, Alexis[Wade.Alexis@epa.gov]; Zomer, Jessica[Zomer.Jessica@epa.gov]; Schroer, Lee[schroer.lee@epa.gov]
From: Schroer, Lee
Sent: Wed 3/1/2017 10:41:14 PM
Subject: New CWA Unreasonable Delay Lawsuit to Respond to Administrative Petition Regarding Washington WQS

;

On February 21, 2017, the Northwest Environmental Advocates (“NWEA”) filed an unreasonable delay suit against the Agency in the Western District of Washington. *Northwest Environmental Advocates v. EPA*, No. 2:17-cv-00263 (W.D.Wash.) The unreasonable delay alleged is with respect to a petition that NWEA filed on October 28, 2013, and subsequently supplemented on August 31, 2015, and February 9, 2016.

NWEA’s petition urged EPA to:

1. Make an Administrator’s determination under CWA § 303(c)(4)(B) that Washington’s water quality toxics criteria *for human health* needed to be updated.
2. Determine that Washington had failed to adopt certain water quality toxics criteria *for the protection of aquatic life*, required pursuant to CWA § 303(c)(2)(B).
3. Promulgate updated water quality toxics criteria for Washington, for both human health and the protection of aquatic life, by rule.

On March 4, 2016, EPA wrote to NWEA, pointing out that it was in the midst of a rulemaking process to potentially promulgate Washington water quality toxics criteria for human health if Washington itself did not act first. With respect to aquatic life, EPA noted that it expected Washington to turn to aquatic life criteria after the matter of human health criteria had been addressed. In that letter, EPA requested NWEA to provide further factual information, intended to help the Agency evaluate whether there was a legal obligation or other substantive need for EPA to promulgate aquatic life criteria for Washington State.

In November, 2016, the Administrator signed a notice of final rulemaking promulgating 144 human health criteria for Washington waters and EPA took action to approve in part and disapprove in part Washington’s August 1, 2016 submission of revised human health criteria (45 approved, 143 disapproved). EPA’s final rule did not include criteria for three pollutants (thallium, dioxin, and arsenic) due to scientific uncertainties regarding the underlying input

variables for those pollutants. (Note that in its review of Washington's criteria submittal, EPA disapproved the State's arsenic criteria, but took no action on the State's criteria for thallium and dioxin).

On February 21, 2016, NWEA:

1. Responded to EPA's March 4, 2016 request, complaining that EPA's questions were "largely rhetorical" and that answering EPA's questions represented "work that Congress intended to be done by EPA, the states and the [wildlife] Services," rather than by NWEA.
2. Filed this unreasonable delay claim against EPA.

NWEA cites three substantive problems with the status quo, in which EPA has not yet delivered its final response to NWEA's 2013 petition:

1. EPA did not promulgate human health criteria for the full suite of pollutants that NWEA requested. NWEA notes the absence of criteria for arsenic, dioxin, and thallium.
2. Washington has not yet adopted revised aquatic life criteria.
3. EPA's promulgation of human health criteria did not fully moot out NWEA's request for aquatic life criteria, because in some cases, the EPA-recommended aquatic life criterion for a particular pollutant is more stringent than the EPA-recommended human health criterion.

The complaint asks the court to order EPA to respond the NWEA's petition within 30 days of the date of the court's order and award plaintiff attorney fees under EAJA.

David Berol of OGC and Alex Fidis of Region 10's ORC are assigned to this matter. If you have any questions, they can be reached at (202) 564-6873 and (206) 553-4710, respectively.

Lee C. Schroer

Office of General Counsel (Mail Code 2355A)

Room 7518C William Jefferson Clinton Bldg North

Environmental Protection Agency

1200 Pennsylvania Avenue, N.W.

Washington, D.C. 20460

Tel: 202-564-5476

To: Szelag, Matthew[Szelag.Matthew@epa.gov]
From: Bartlett, Heather (ECY)
Sent: Thur 6/1/2017 8:10:05 PM
Subject: RE: Northwest Environmental Advocates (NWEA) petition response

Thanks Matt. Hope all is well in Alaska ☺

From: Szelag, Matthew [mailto:Szelag.Matthew@epa.gov]
Sent: Thursday, June 1, 2017 10:09 AM
To: Bartlett, Heather (ECY) <heba461@ECY.WA.GOV>; Gildersleeve, Melissa (ECY) <MGIL461@ECY.WA.GOV>
Cc: Psyk, Christine <Psyk.Christine@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>
Subject: Northwest Environmental Advocates (NWEA) petition response

Hi Heather and Melissa,

Attached please find EPA's final response to the Northwest Environmental Advocates' October 2013 petition for rulemaking in Washington regarding water quality criteria for toxics. Please let us know if you have any questions.

Thanks,

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

222 W 7th Avenue, #19 | Anchorage, AK 99513

P: (907) 271.1208 | szelag.matthew@epa.gov

To: Szelag, Matthew[Szelag.Matthew@epa.gov]
From: Chung, Angela
Sent: Tue 5/30/2017 5:55:22 PM
Subject: RE: [WA, NWEA Petition Response]: Desk statement

Ex. 5 - Deliberative Process

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Szelag, Matthew
Sent: Tuesday, May 30, 2017 10:03 AM
To: Chung, Angela <Chung.Angela@epa.gov>
Subject: RE: [WA, NWEA Petition Response]: Desk statement

Ex. 5 - Deliberative Process

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

222 W 7th Avenue, #19 | Anchorage, AK 99513

P: (907) 271.1208 | szelag.matthew@epa.gov

From: Chung, Angela
Sent: Tuesday, May 30, 2017 8:57 AM
To: Szelag, Matthew <Szelag.Matthew@epa.gov>
Subject: RE: [WA, NWEA Petition Response]: Desk statement

Ex. 5 - Deliberative Process

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Szelag, Matthew
Sent: Tuesday, May 30, 2017 9:37 AM
To: Chung, Angela <Chung.Angela@epa.gov>
Subject: FW: [WA, NWEA Petition Response]: Desk statement

FYI

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

222 W 7th Avenue, #19 | Anchorage, AK 99513

P: (907) 271.1208 | szelag.matthew@epa.gov

From: Crk, Tanja
Sent: Friday, May 26, 2017 5:44 AM
To: Barr, Janine <barr.janine@epa.gov>
Cc: Fleisig, Erica <Fleisig.Erica@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>
Subject: [WA, NWEA Petition Response]: Desk statement

Hi Janine,

Please use the below desk statement for the WA NWEA petition denial. We

Ex. 5 - Deliberative Process

Northwest Environmental Advocates Petition Response

Desk Statement

Ex. 5 - Deliberative Process

To: Szelag, Matthew[Szelag.Matthew@epa.gov]
From: Chung, Angela
Sent: Tue 5/30/2017 4:56:33 PM
Subject: RE: [WA, NWEA Petition Response]: Desk statement

Ex. 5 - Deliberative Process

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Szelag, Matthew
Sent: Tuesday, May 30, 2017 9:37 AM
To: Chung, Angela <Chung.Angela@epa.gov>
Subject: FW: [WA, NWEA Petition Response]: Desk statement

FYI

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

222 W 7th Avenue, #19 | Anchorage, AK 99513

P: (907) 271.1208 | szelag.matthew@epa.gov

From: Crk, Tanja
Sent: Friday, May 26, 2017 5:44 AM
To: Barr, Janine <barr.janine@epa.gov>
Cc: Fleisig, Erica <Fleisig.Erica@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>
Subject: [WA, NWEA Petition Response]: Desk statement

Hi Janine,

Please use the below desk statement for the WA NWEA petition denial. We

Ex. 5 - Deliberative Process

Northwest Environmental Advocates Petition Response

Desk Statement

Ex. 5 - Deliberative Process

To: Kissinger, Lon[Kissinger.Lon@epa.gov]; Soscia, Marylou[Soscia.Marylou@epa.gov]; Palmer, John[Palmer.John@epa.gov]
From: Szelag, Matthew
Sent: Tue 10/29/2013 5:50:55 PM
Subject: FW: Petition to EPA Administrator -- WA toxics
Petition to Update Washington WQS FINAL.pdf
Petition cover letter.pdf

FYI – this includes both human health and aquatic life criteria.

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

1200 6th Avenue, Suite 900, OWW-131 | Seattle, WA 98101

P: (206) 553.5171 | szelag.matthew@epa.gov

From: Nina Bell [mailto:nbell@advocates-nwea.org]
Sent: Monday, October 28, 2013 10:18 AM
To: Opalski, Dan; Psyk, Christine; Chung, Angela
Cc: Szelag, Matthew
Subject: Petition to EPA Administrator -- WA toxics

Dan, Christine, and Angela:

Please find attached the petition to Administrator McCarthy regarding Washington's toxic criteria.

Nina

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212-0187

www.NorthwestEnvironmentalAdvocates.org

nbell@advocates-nwea.org

503/295-0490

To: Chung, Angela[Chung.Angela@epa.gov]
From: Szelag, Matthew
Sent: Tue 5/30/2017 5:58:26 PM
Subject: RE: [WA, NWEA Petition Response]: Desk statement

Ex. 5 - Deliberative Process

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

222 W 7th Avenue, #19 | Anchorage, AK 99513

P: (907) 271.1208 | szelag.matthew@epa.gov

From: Chung, Angela
Sent: Tuesday, May 30, 2017 9:55 AM
To: Szelag, Matthew <Szelag.Matthew@epa.gov>
Subject: RE: [WA, NWEA Petition Response]: Desk statement

Ex. 5 - Deliberative Process

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Szelag, Matthew
Sent: Tuesday, May 30, 2017 10:03 AM
To: Chung, Angela <Chung.Angela@epa.gov>
Subject: RE: [WA, NWEA Petition Response]: Desk statement

Ex. 5 - Deliberative Process

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

222 W 7th Avenue, #19 | Anchorage, AK 99513

P: (907) 271.1208 | szelag.matthew@epa.gov

From: Chung, Angela
Sent: Tuesday, May 30, 2017 8:57 AM
To: Szelag, Matthew <Szelag.Matthew@epa.gov>
Subject: RE: [WA, NWEA Petition Response]: Desk statement

Ex. 5 - Deliberative Process

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Szelag, Matthew
Sent: Tuesday, May 30, 2017 9:37 AM
To: Chung, Angela <Chung.Angela@epa.gov>
Subject: FW: [WA, NWEA Petition Response]: Desk statement

FYI

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

222 W 7th Avenue, #19 | Anchorage, AK 99513

P: (907) 271.1208 | szelag.matthew@epa.gov

From: Crk, Tanja

Sent: Friday, May 26, 2017 5:44 AM

To: Barr, Janine <barr.janine@epa.gov>

Cc: Fleisig, Erica <Fleisig.Erica@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>

Subject: [WA, NWEA Petition Response]: Desk statement

Hi Janine,

Please use the below desk statement for the WA NWEA petition denial. We

Ex. 5 - Deliberative Process

Northwest Environmental Advocates Petition Response

Desk Statement

Ex. 5 - Deliberative Process

To: cnie461@ecy.wa.gov[cnie461@ecy.wa.gov]; Gildersleeve, Melissa (ECY)[MGIL461@ECY.WA.GOV]; Susan Braley[subr461@ecy.wa.gov]
Cc: Chung, Angela[Chung.Angela@epa.gov]
From: Szelag, Matthew
Sent: Mon 10/28/2013 7:13:45 PM
Subject: FW: Petition to EPA Administrator -- WA toxics
Petition to Update Washington WQS FINAL.pdf
Petition cover letter.pdf

FYI – I haven't read this yet, but my understanding is that it includes human health and aquatic life.

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

1200 6th Avenue, Suite 900, OWW-131 | Seattle, WA 98101

P: (206) 553.5171 | szelag.matthew@epa.gov

From: Nina Bell [mailto:nbell@advocates-nwea.org]
Sent: Monday, October 28, 2013 10:18 AM
To: Opalski, Dan; Psyk, Christine; Chung, Angela
Cc: Szelag, Matthew
Subject: Petition to EPA Administrator -- WA toxics

Dan, Christine, and Angela:

Please find attached the petition to Administrator McCarthy regarding Washington's toxic criteria.

Nina

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212-0187

www.NorthwestEnvironmentalAdvocates.org

nbell@advocates-nwea.org

503/295-0490

To: Chung, Angela[Chung.Angela@epa.gov]
From: Szelag, Matthew
Sent: Tue 5/30/2017 5:02:45 PM
Subject: RE: [WA, NWEA Petition Response]: Desk statement

Ex. 5 - Deliberative Process

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

222 W 7th Avenue, #19 | Anchorage, AK 99513

P: (907) 271.1208 | szelag.matthew@epa.gov

From: Chung, Angela
Sent: Tuesday, May 30, 2017 8:57 AM
To: Szelag, Matthew <Szelag.Matthew@epa.gov>
Subject: RE: [WA, NWEA Petition Response]: Desk statement

Ex. 5 - Deliberative Process

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Szelag, Matthew
Sent: Tuesday, May 30, 2017 9:37 AM
To: Chung, Angela <Chung.Angela@epa.gov>
Subject: FW: [WA, NWEA Petition Response]: Desk statement

FYI

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U.S. Environmental Protection Agency | Region 10

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P: (907) 271.1208 | szelag.matthew@epa.gov

From: Crk, Tanja

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To: Barr, Janine <barr.janine@epa.gov>

Cc: Fleisig, Erica <Fleisig.Erica@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>

Subject: [WA, NWEA Petition Response]: Desk statement

Hi Janine,

Please use the below desk statement for the WA NWEA petition denial. We

Ex. 5 - Deliberative Process

Northwest Environmental Advocates Petition Response

Desk Statement

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

To: Chung, Angela[Chung.Angela@epa.gov]
From: Szelag, Matthew
Sent: Tue 5/30/2017 4:36:58 PM
Subject: FW: [WA, NWEA Petition Response]: Desk statement

FYI

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

222 W 7th Avenue, #19 | Anchorage, AK 99513

P: (907) 271.1208 | szelag.matthew@epa.gov

From: Crk, Tanja
Sent: Friday, May 26, 2017 5:44 AM
To: Barr, Janine <barr.janine@epa.gov>
Cc: Fleisig, Erica <Fleisig.Erica@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>
Subject: [WA, NWEA Petition Response]: Desk statement

Hi Janine,

Please use the below desk statement for the WA NWEA petition denial. We

Ex. 5 - Deliberative Process

Northwest Environmental Advocates Petition Response

Desk Statement

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

To: Galer, Rose[Galer.Rose@epa.gov]; Fabiano, Claudia[Fabiano.Claudia@epa.gov]
Cc: Chung, Angela[Chung.Angela@epa.gov]
From: Szelag, Matthew
Sent: Mon 10/28/2013 6:10:39 PM
Subject: FW: Petition to EPA Administrator -- WA toxics
Petition to Update Washington WQS FINAL.pdf
Petition cover letter.pdf

FYI – I haven't read this yet, but my understanding is that it includes human health and aquatic life. Could you please share with the appropriate folks at HQ?

Thanks,

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

1200 6th Avenue, Suite 900, OWW-131 | Seattle, WA 98101

P: (206) 553.5171 | szelag.matthew@epa.gov

From: Nina Bell [mailto:nbell@advocates-nwea.org]
Sent: Monday, October 28, 2013 10:18 AM
To: Opalski, Dan; Psyk, Christine; Chung, Angela
Cc: Szelag, Matthew
Subject: Petition to EPA Administrator -- WA toxics

Dan, Christine, and Angela:

Please find attached the petition to Administrator McCarthy regarding Washington's toxic criteria.

Nina

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212-0187

www.NorthwestEnvironmentalAdvocates.org

nbell@advocates-nwea.org

503/295-0490

To: Chung, Angela[Chung.Angela@epa.gov]
From: Szelag, Matthew
Sent: Wed 5/24/2017 6:46:58 PM
Subject: RE: Petition response

Looks good, thanks.

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

222 W 7th Avenue, #19 | Anchorage, AK 99513

P: (907) 271.1208 | szelag.matthew@epa.gov

From: Chung, Angela
Sent: Wednesday, May 24, 2017 10:40 AM
To: Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>
Subject: Petition response

FYI – this is what I reported in the weekly hot issues.

Ex. 5 - Deliberative Process

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191

Seattle, WA 98101
Phone: 206-553-6511

To: Macchio, Lisa[Macchio.Lisa@epa.gov]
From: Szelag, Matthew
Sent: Mon 10/28/2013 6:09:00 PM
Subject: FW: Petition to EPA Administrator -- WA toxics
Petition to Update Washington WQS FINAL.pdf
Petition cover letter.pdf

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

1200 6th Avenue, Suite 900, OWW-131 | Seattle, WA 98101

P: (206) 553.5171 | szelag.matthew@epa.gov

From: Nina Bell [mailto:nbell@advocates-nwea.org]
Sent: Monday, October 28, 2013 10:18 AM
To: Opalski, Dan; Psyk, Christine; Chung, Angela
Cc: Szelag, Matthew
Subject: Petition to EPA Administrator -- WA toxics

Dan, Christine, and Angela:

Please find attached the petition to Administrator McCarthy regarding Washington's toxic criteria.

Nina

Nina Bell, J.D., Executive Director

Northwest Environmental Advocates

P.O. Box 12187

Portland, OR 97212-0187

www.NorthwestEnvironmentalAdvocates.org

nbell@advocates-nwea.org

503/295-0490

To: Chung, Angela[Chung.Angela@epa.gov]
From: Szelag, Matthew
Sent: Thur 5/26/2016 11:40:00 PM
Subject: RE: OWW's Weekly for 05/27/2016

Haha.

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

1200 6th Avenue, Suite 900, OWW-191 | Seattle, WA 98101

P: (206) 553.5171 | szelag.matthew@epa.gov

From: Chung, Angela
Sent: Thursday, May 26, 2016 4:30 PM
To: Szelag, Matthew <Szelag.Matthew@epa.gov>
Subject: RE: OWW's Weekly for 05/27/2016

Dan must have thought my May 4 was a typo (understandable) so he changed it to May 24!

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Dan Opalski [<mailto:Opalski.Dan@epamail.epa.gov>]
Sent: Thursday, May 26, 2016 3:27 PM
To: R10-ORA <R10-ORA@epa.gov>
Cc: R10 ECI OWW Editors <R10_ECI_OWW_Editors@epamail.epa.gov>; Barber, Anthony <Barber.Anthony@epa.gov>; Soderlund, Dianne <Soderlund.Dianne@epa.gov>; Werntz, James <Werntz.James@epa.gov>; Kenknight, Jeff <Kenknight.Jeff@epa.gov>; Edmondson, Lucy <Edmondson.Lucy@epa.gov>; Szerlog, Michael <Szerlog.Michael@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Castanon, Lisa <Castanon.Lisa@epa.gov>; Murchie, Peter <Murchie.Peter@epa.gov>; Fordham, Tami <Fordham.Tami@epa.gov>
Subject: OWW's Weekly for 05/27/2016

*** Internal Use Only ***

Subject: Weekly Report for the week of 05/27/2016 for OWW

To: r10-ora@epa.gov

CC: R10 ECI OWW Editors; Anthony Barber/R10/USEPA/US; Dianne Soderlund/R10/USEPA/US; James Werntz/R10/USEPA/US; Jeff Kenknight/R10/USEPA/US; Lucy Edmondson/R10/USEPA/US; Michael Szerlog/R10/USEPA/US; Cara Steiner-Riley/R10/USEPA/US; Lisa Castanon/R10/USEPA/US; Peter Murchie/R10/USEPA/US; Tami Fordham/R10/USEPA/US

OD & AD TRAVEL/SIGNIFICANT LEAVE:

Dan Opalski: IN Tue a.m.(teleworking)/Wed/Thu/Fri; OUT Mon (Holiday)/Tue p.m. (S/L)

Christine Psyk: IN Tue/Wed/Thu; OUT Mon (Holiday)/Fri (Compressed)

Bella Patheal-Centnera: IN Tue/Wed/Thu/Fri

HOT TOPICS

This Week:

NWEA Washington WQS Petition: On May 24, EPA HQ sent Northwest Environmental Advocates (NWEA) a response to their petition dated October 28, 2013 (and subsequent follow up letters from 2015 and 2016) requesting that EPA take specific steps to update water quality criteria for toxics to protect human health and aquatic life in Washington. EPA's response outlined the ongoing federal and state rule activity regarding Washington's human health criteria. Regarding aquatic life criteria, EPA did not grant or deny the petition but, instead, requested additional follow up information from NWEA. EPA also informed NWEA that it has encouraged Ecology (and Ecology has itself identified as a priority in its five year water quality strategy) to prioritize aquatic life criteria revisions consistent with the Agency's latest 304(a) recommendations and Region 10 Endangered Species Act consultations. Region 10 received a copy of the signed HQ response on May 24 and shared it with the WA Department of Ecology. POC: Matt Szelag, 3-5171.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

To: Chung, Angela[Chung.Angela@epa.gov]
From: Szelag, Matthew
Sent: Wed 5/25/2016 9:04:42 PM
Subject: RE: NWEA petition response

Sounds good.

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

1200 6th Avenue, Suite 900, OWW-191 | Seattle, WA 98101

P: (206) 553.5171 | szelag.matthew@epa.gov

From: Chung, Angela
Sent: Wednesday, May 25, 2016 1:47 PM
To: Szelag, Matthew <Szelag.Matthew@epa.gov>
Subject: Re: NWEA petition response

Thanks Matt. I'll also probably add that we just got a copy on Tuesday and shared with Ecology.

Sent from my iPhone

On May 25, 2016, at 1:41 PM, Szelag, Matthew <Szelag.Matthew@epa.gov> wrote:

Here's a brief summary:

On May 4, EPA sent Northwest Environmental Advocates (NWEA) a response to their petition dated October 28, 2013 (and subsequent follow up letters from 2015 and 2016) requesting that EPA take specific steps to update water quality criteria for toxics to protect human health and aquatic life in Washington. EPA's response outlined the ongoing federal and state rule activity regarding Washington's human health criteria. Regarding aquatic life criteria, EPA did not grant or deny the petition, instead asking for additional follow up information from NWEA. EPA also encouraged Ecology to prioritize aquatic life criteria revisions consistent with the Agency's latest 304(a) recommendations and Region 10 Endangered Species Act consultations.

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

1200 6th Avenue, Suite 900, OWW-191 | Seattle, WA 98101

P: (206) 553.5171 | szelag.matthew@epa.gov

From: Chung, Angela
Sent: Wednesday, May 25, 2016 11:35 AM
To: Szelag, Matthew <Szelag.Matthew@epa.gov>
Subject: RE: NWEA petition response

This was signed on May 4 and we are just getting it now!?! Can you write a short blurb for the Thursday hot issues (I need it by tomorrow morning)? Thanks.

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Szelag, Matthew
Sent: Tuesday, May 24, 2016 9:11 AM
To: mgil461@ECY.WA.GOV
Cc: Chung, Angela <Chung.Angela@epa.gov>
Subject: NWEA petition response

Hi Melissa,

Here's a signed copy of EPA's response to NWEA's petition request for toxics criteria in Washington. Sorry for the delay.

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

1200 6th Avenue, Suite 900, OWW-191 | Seattle, WA 98101

P: (206) 553.5171 | szelag.matthew@epa.gov

To: Chung, Angela[Chung.Angela@epa.gov]
From: Szelag, Matthew
Sent: Wed 5/25/2016 8:41:01 PM
Subject: RE: NWEA petition response

Here's a brief summary:

On May 4, EPA sent Northwest Environmental Advocates (NWEA) a response to their petition dated October 28, 2013 (and subsequent follow up letters from 2015 and 2016) requesting that EPA take specific steps to update water quality criteria for toxics to protect human health and aquatic life in Washington. EPA's response outlined the ongoing federal and state rule activity regarding Washington's human health criteria. Regarding aquatic life criteria, EPA did not grant or deny the petition, instead asking for additional follow up information from NWEA. EPA also encouraged Ecology to prioritize aquatic life criteria revisions consistent with the Agency's latest 304(a) recommendations and Region 10 Endangered Species Act consultations.

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

1200 6th Avenue, Suite 900, OWW-191 | Seattle, WA 98101

P: (206) 553.5171 | szelag.matthew@epa.gov

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Sent: Wednesday, May 25, 2016 11:35 AM
To: Szelag, Matthew <Szelag.Matthew@epa.gov>
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1200 6th Avenue, Suite 900, OWW-191 | Seattle, WA 98101

P: (206) 553.5171 | szelag.matthew@epa.gov

To: Chung, Angela[Chung.Angela@epa.gov]; Labiosa, Rochelle[labiosa.rochelle@epa.gov]; Macchio, Lisa[Macchio.Lisa@epa.gov]; Tritt, Maja[Tritt.Maja@epa.gov]; Beckwith, William[Beckwith.William@epa.gov]; Grafe, Cyndi[Grafe.Cyndi@epa.gov]; Guzzo, Lindsay[Guzzo.Lindsay@epa.gov]
From: Szelag, Matthew
Sent: Thur 4/6/2017 12:19:27 AM
Subject: RE: Heads Up: You're on next week's agenda for the WQS Program conference call

Thanks Angela, updated versions here.

Washington NWEA petition: On February 21, 2017, NWEA filed an unreasonable delay suit against the EPA in the Western District of Washington. The unreasonable delay alleged is with respect to a petition that NWEA filed on October 28, 2013, and subsequently supplemented on August 31, 2015, and February 9, 2016. NWEA's petition urged EPA to promulgate updated water quality toxics criteria for Washington, for both human health and the protection of aquatic life, by rule. In the litigation, NWEA cites that EPA has not yet delivered a response to NWEA's 2013 petition regarding: (1) Human health: EPA did not promulgate human health criteria for the full suite of pollutants that NWEA requested, noting the absence of criteria for arsenic, dioxin, and thallium and, (2) Aquatic life: Washington has not yet adopted revised aquatic life criteria and EPA has not promulgated aquatic life criteria for Washington. EPA sent a preliminary response to NWEA on March 4, 2016 that requested additional information to support the petition request and NWEA replied to EPA on February 21, 2017. We are currently working with HQ on a final response to this petition.

Ex. 5 - Deliberative Process

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Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

222 W 7th Avenue, #19 | Anchorage, AK 99513

P: (907) 271.1208 | szelag.matthew@epa.gov

From: Chung, Angela

Sent: Wednesday, April 05, 2017 3:47 PM

To: Szelag, Matthew <Szelag.Matthew@epa.gov>; Labiosa, Rochelle <labiosa.rochelle@epa.gov>; Macchio, Lisa <Macchio.Lisa@epa.gov>; Tritt, Maja <Tritt.Maja@epa.gov>; Beckwith, William <Beckwith.William@epa.gov>; Grafe, Cyndi <Grafe.Cyndi@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>
Subject: RE: Heads Up: You're on next week's agenda for the WQS Program conference call

Thanks Matt – and Lindsay for covering the call next week.

Ex. 5 - Deliberative Process

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Szelag, Matthew

Sent: Wednesday, April 05, 2017 10:12 AM

To: Labiosa, Rochelle <labiosa.rochelle@epa.gov>; Macchio, Lisa <Macchio.Lisa@epa.gov>;

Tritt, Maja <Tritt.Maja@epa.gov>; Beckwith, William <Beckwith.William@epa.gov>; Grafe, Cyndi <Grafe.Cyndi@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>
Cc: Chung, Angela <Chung.Angela@epa.gov>
Subject: RE: Heads Up: You're on next week's agenda for the WQS Program conference call

Ex. 5 - Deliberative Process

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Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

222 W 7th Avenue, #19 | Anchorage, AK 99513

P: (907) 271.1208 | szelag.matthew@epa.gov

From: Labiosa, Rochelle

Sent: Wednesday, April 05, 2017 8:05 AM

To: Macchio, Lisa <Macchio.Lisa@epa.gov>; Tritt, Maja <Tritt.Maja@epa.gov>; Beckwith, William <Beckwith.William@epa.gov>; Grafe, Cyndi <Grafe.Cyndi@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>

Cc: Szelag, Matthew <Szelag.Matthew@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>

Subject: FW: Heads Up: You're on next week's agenda for the WQS Program conference call

Importance: High

FYI – it looks like R10 issues on the agenda are the petitions in WA and AK?

Agenda from the invite:

1. Who's on the call? (Sharon Frey)
2. Petitions for Rulemaking or Reconsideration: descriptions about the petitions received and the status of each: 1 (ME), 4 (FL and AL), 5 (MN), 6 (AR), 7 (IA), and 10 (WA x 2, AK)). (Regions, TBD)
3. Update on the Regional-HQ Coordination Workgroup (Erica Fleisig, Lauren Petter, Sarah Ludwig-Monty)

4. What are the plans for the next national meeting? (Melissa Dreyfus)

5. Addressing Part 25 in EPA's review of WQS submissions (Janine Barr)

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

From: Frey, Sharon

Sent: Tuesday, April 04, 2017 10:38 AM

To: Abele, Ralph <abele.ralph@epa.gov>; Voorhees, Jeanne <voorhees.jeanne@epa.gov>; Godfrey, Annie <Godfrey.Annie@epa.gov>; Hansel, Joel <Hansel.Joel@epa.gov>; Holst, Linda <holst.linda@epa.gov>; Pfeifer, David <pfeifer.david@epa.gov>; Bauer, Candice <bauer.candice@epa.gov>; Crocker, Philip <crocker.philip@epa.gov>; Nelson, Russell <nelson.russell@epa.gov>; DeLashmit, John <Delashmit.John@epa.gov>; Lavaty, Ann <Lavaty.Ann@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Labiosa, Rochelle <labiosa.rochelle@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Petter, Lauren <Petter.Lauren@epa.gov>; Ludwig-Monty, Sarah <ludwig-monty.sarah@epa.gov>; Dreyfus, Melissa G. <Dreyfus.Melissa@epa.gov>; Barr, Janine <barr.janine@epa.gov>; Adair, Jillian <adair.jillian@epa.gov>

Subject: Heads Up: You're on next week's agenda for the WQS Program conference call

Importance: High

See the agenda attached to the meeting invite (April 11, 1-2:30 Eastern).

Regions – I didn't know whose names to send this email to so I just picked people who I hear on the calls a lot. I trust you'll ensure that you'll make sure your region has the appropriate spokespeople. Thanks!

Sharon Frey

Office of Science and Technology

Office of Water

202-566-1480

To: Chung, Angela[Chung.Angela@epa.gov]
From: Szelag, Matthew
Sent: Fri 4/29/2016 8:17:37 PM
Subject: FW: Industrial stormwater general permit question
Petition follow up letter Aug 31 2015.pdf
NMFS comment letter to Ecology re Weyerhaeuser.pdf
FW: CRITFC Request for Discussion (Tribal concern Columbia River Toxics)

Hi Angela,

Ex. 5 - Deliberative Process

Thanks,

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

1200 6th Avenue, Suite 900, OWW-191 | Seattle, WA 98101

P: (206) 553.5171 | szelag.matthew@epa.gov

From: Burgess, Karen
Sent: Thursday, April 28, 2016 3:57 PM
To: Szelag, Matthew <Szelag.Matthew@epa.gov>
Cc: Fleisig, Erica <Fleisig.Erica@epa.gov>
Subject: RE: Industrial stormwater general permit question

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

concerns in the response to comment document (link:

WA0000124_WeyerhaeuserLongview_NPDESfactsheet_2014_10.pdf), not related specifically to stormwater.

Ecology responded to NMFS's

Ex. 5 - Deliberative Process

Ecology response to comments on WeyCo says, page 111

Ecology appreciates the comments concerning the potential for toxicity in the discharge. In

issuing NPDES permits Ecology establishes water quality based effluent limitations for pollutants with the potential to exceed standards. Under state and federal law, these effluent

limitations may either be based on the state's EPA-approved water quality standards or waste

load allocations established in an approved TMDL. Ecology does not have the legal authority to

propose new criteria or amend the state's Water Quality Standards ad hoc based on comments

received through an individual permit issuance process. Where enough scientific information

and data exists to indicate the presence of pollutants that require environmentally protective

criteria, Ecology's Water Quality Standards Group will work to develop those criteria.

Comments provided will be forwarded to this group for review and consideration.

*Based on the agency's **Water Quality Standards Five-Year Work Plan FY 2012 – FY 2016,***

Ecology will soon be beginning work to update the state's water quality criteria for the

protection of aquatic life. During this upcoming rulemaking Ecology will solicit comments and

input in updating the state's criteria to ensure that the best available science is used in adopting

new criteria to protect aquatic life, including ESA listed species.

Karen Burgess, P.E.

NPDES Permits Unit - State Oversight Lead

EPA Region 10

206-553-1644 | Burgess.Karen@epa.gov

From: Szelag, Matthew
Sent: Thursday, April 28, 2016 9:35 AM
To: Burgess, Karen <Burgess.Karen@epa.gov>
Cc: Fleisig, Erica <Fleisig.Erica@epa.gov>
Subject: Industrial stormwater general permit question

Hi Karen,

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Thanks in advance.

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

1200 6th Avenue, Suite 900, OWW-191 | Seattle, WA 98101

P: (206) 553.5171 | szelag.matthew@epa.gov

To: Labiosa, Rochelle[labiosa.rochelle@epa.gov]; Macchio, Lisa[Macchio.Lisa@epa.gov]; Tritt, Maja[Tritt.Maja@epa.gov]; Beckwith, William[Beckwith.William@epa.gov]; Grafe, Cyndi[Grafe.Cyndi@epa.gov]; Guzzo, Lindsay[Guzzo.Lindsay@epa.gov]
Cc: Chung, Angela[Chung.Angela@epa.gov]
From: Szelag, Matthew
Sent: Wed 4/5/2017 5:12:22 PM
Subject: RE: Heads Up: You're on next week's agenda for the WQS Program conference call

Yes, that's correct. For everyone's benefit, here is a summary of the three petitions. I think Lindsay is going to cover since Angela and I will be out, but Erica/Tanja know the details as well if we get questions. Lindsay/Angela – feel free to revise or edit the descriptions below.

Washington NWEA petition: On February 21, 2017, NWEA filed an unreasonable delay suit against the EPA in the Western District of Washington. The unreasonable delay alleged is with respect to a petition that NWEA filed on October 28, 2013, and subsequently supplemented on August 31, 2015, and February 9, 2016. NWEA's petition urged EPA to promulgate updated water quality toxics criteria for Washington, for both human health and the protection of aquatic life, by rule. In the litigation, NWEA cites that EPA has not yet delivered a response to NWEA's 2013 petition regarding: (1) Human health: EPA did not promulgate human health criteria for the full suite of pollutants that NWEA requested, noting the absence of criteria for arsenic, dioxin, and thallium and, (2) Aquatic life: Washington has not yet adopted revised aquatic life criteria and EPA has not promulgated aquatic life criteria for Washington.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

222 W 7th Avenue, #19 | Anchorage, AK 99513

P: (907) 271.1208 | szelag.matthew@epa.gov

From: Labiosa, Rochelle

Sent: Wednesday, April 05, 2017 8:05 AM

To: Macchio, Lisa <Macchio.Lisa@epa.gov>; Tritt, Maja <Tritt.Maja@epa.gov>; Beckwith, William <Beckwith.William@epa.gov>; Grafe, Cyndi <Grafe.Cyndi@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>

Cc: Szelag, Matthew <Szelag.Matthew@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>

Subject: FW: Heads Up: You're on next week's agenda for the WQS Program conference call

Importance: High

FYI – it looks like R10 issues on the agenda are the petitions in WA and AK?

Agenda from the invite:

1. Who's on the call? (Sharon Frey)
2. Petitions for Rulemaking or Reconsideration: descriptions about the petitions received and the status of each: 1 (ME), 4 (FL and AL), 5 (MN), 6 (AR), 7 (IA), and 10 (WA x 2, AK)). (Regions, TBD)
3. Update on the Regional-HQ Coordination Workgroup (Erica Fleisig, Lauren Petter, Sarah Ludwig-Monty)
4. What are the plans for the next national meeting? (Melissa Dreyfus)

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

From: Frey, Sharon

Sent: Tuesday, April 04, 2017 10:38 AM

To: Abele, Ralph <abele.ralph@epa.gov>; Voorhees, Jeanne <voorhees.jeanne@epa.gov>; Godfrey, Annie <Godfrey.Annie@epa.gov>; Hansel, Joel <Hansel.Joel@epa.gov>; Holst, Linda <holst.linda@epa.gov>; Pfeifer, David <pfeifer.david@epa.gov>; Bauer, Candice <bauer.candice@epa.gov>; Crocker, Philip <crocker.philip@epa.gov>; Nelson, Russell <nelson.russell@epa.gov>; DeLashmit, John <Delashmit.John@epa.gov>; Lavaty, Ann <Lavaty.Ann@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Labiosa, Rochelle <labiosa.rochelle@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Petter, Lauren <Petter.Lauren@epa.gov>; Ludwig-Monty, Sarah <ludwig-monty.sarah@epa.gov>; Dreyfus, Melissa G. <Dreyfus.Melissa@epa.gov>; Barr, Janine <barr.janine@epa.gov>; Adair, Jillian <adair.jillian@epa.gov>

Subject: Heads Up: You're on next week's agenda for the WQS Program conference call

Importance: High

See the agenda attached to the meeting invite (April 11, 1-2:30 Eastern).

Regions – I didn't know whose names to send this email to so I just picked people who I hear on the calls a lot. I trust you'll ensure that you'll make sure your region has the appropriate spokespeople. Thanks!

Sharon Frey

Office of Science and Technology

Office of Water

202-566-1480

To: Guzzo, Lindsay[Guzzo.Lindsay@epa.gov]
From: Szelag, Matthew
Sent: Wed 3/22/2017 10:53:29 PM
Subject: FW: WA Toxic Criteria and AWB Petitions
Draft WA comparison chart 3 6 17.xlsx

Ex. 5 - Deliberative Process

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

222 W 7th Avenue, #19 | Anchorage, AK 99513

P: (907) 271.1208 | szelag.matthew@epa.gov

From: Szelag, Matthew

Sent: Tuesday, March 07, 2017 8:51 AM

To: Fleisig, Erica <Fleisig.Erica@epa.gov>; Berol, David <Berol.David@epa.gov>

Cc: Crk, Tanja <Crk.Tanja@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>

Subject: RE: WA Toxic Criteria and AWB Petitions

Hi all,

Ex. 5 - Deliberative Process

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Talk to you soon and thanks to Erica for helping pull this information together.

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

222 W 7th Avenue, #19 | Anchorage, AK 99513

P: (907) 271.1208 | szelag.matthew@epa.gov

From: Fleisig, Erica

Sent: Tuesday, March 07, 2017 4:24 AM

To: Berol, David <Berol.David@epa.gov>

Cc: Crk, Tanja <Crk.Tanja@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>

Subject: Re: WA Toxic Criteria and AWB Petitions

Ex. 5 - Attorney Client

Erica

From: Berol, David

Sent: Monday, March 6, 2017 1:56:42 PM

To: Fleisig, Erica

Cc: Crk, Tanja; Chung, Angela; Szelag, Matthew; Guzzo, Lindsay; Szalay, Endre; Steiner-Riley, Cara; Fidis, Alexander; Buffo, Corey; Ford, Peter; Schroer, Lee

Subject: Re: WA Toxic Criteria and AWB Petitions

Thanks, Erica.

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

-- David Berol

U.S. EPA Office of General Counsel

202-564-6873

On Mar 5, 2017, at 11:44 PM, Fleisig, Erica <Fleisig.Erica@epa.gov> wrote:

Ex. 5 - Attorney Client

-Erica

From: Berol, David

Sent: Friday, March 03, 2017 3:35 PM

To: Crk, Tanja <Crk.Tanja@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>

Cc: Schroer, Lee <schroer.lee@epa.gov>

Subject: RE: WA Toxic Criteria and AWB Petitions

Attorney-Client Privileged; Deliberative

All –

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

David Berol

U.S. EPA Office of General Counsel

202-564-6873

berol.david@epa.gov

-----Original Appointment-----

From: Crk, Tanja

Sent: Thursday, February 23, 2017 9:59 AM

To: Crk, Tanja; Chung, Angela; Szelag, Matthew; Guzzo, Lindsay; Szalay, Endre; Steiner-Riley, Cara; Fleisig, Erica; Fidis, Alexander; Buffo, Corey; Berol, David; Ford, Peter

Cc: Schroer, Lee

Subject: WA Toxic Criteria and AWB Petitions

When: Tuesday, March 07, 2017 1:00 PM-2:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: HQ-Room-WJCW-6124-50pp

Ex. 5 - Deliberative Process